

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS & INDUSTRY**

Call to Order: By J.D. Lynch, Chair, on January 26, 1993, at 10:00 a.m.

ROLL CALL

Members Present:

Sen. J.D. Lynch, Chair (D)
Sen. Chris Christiaens, Vice Chair (D)
Sen. Betty Bruski-Maus (D)
Sen. Delwyn Gage (R)
Sen. Tom Hager (R)
Sen. Ethel Harding (R)
Sen. Ed Kennedy (D)
Sen. Terry Klampe (D)
Sen. Francis Koehnke (D)
Sen. Kenneth Mesaros (R)
Sen. Doc Rea (D)
Sen. Daryl Toews (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Kristie Wolter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 34, HB 49
Executive Action: SB 161

HEARING ON HB 34

Opening Statement by Sponsor:

Representative Davis, House District 53, opened on HB 34 by reading from prepared testimony (Exhibit #1). Rep. Davis concluded his opening statement by proposing an amendment stating "in rural areas only" be added to HB 34 in the appropriate place.

Proponents' Testimony:

None.

Opponents' Testimony:

Scott Stekly, Montana Board of Cosmetology, stated his opposition to HB 34. He stated if a cosmetologists are given the right to make home visits without any way of their supplies being checked for sterilization and sanitation, then the industry will suffer as well as the clients. Mr. Stekly stated there are some licensed salons who do not follow sanitation regulations, and the Board makes them abide. The current law states cosmetologists may leave licensed salons and go to homebound and handicapped homes to give hair care. The state requires the licensing of salons and also licenses for cosmetologists. If a person is retired from the cosmetology field and no longer has a license, the Board cannot discipline them. He stated HB 34 would allow people who have a cosmetology license and not a salon license to run a business out of their homes with no regard to sanitation and sterilization rules. Mr. Stekly added he felt if these licensed cosmetologists work out of their homes, they would probably not report their income and maybe not pay taxes. He said if a cosmetologist is retired or not working has let their license lapse, the Board has no retribution against them if they chose to practice. Mr. Stekly stated if SB 34 were enacted as it is currently is drafted, there would be a lot of licensees working out of their homes because the overhead is cheaper than working in a salon. He concluded these people would have no guidance on sterilization and sanitation.

Verna Dupuis, Licensed Cosmetologist, State School Owner and Member of the State Board of Cosmetology, stated she opposed SB 34. She stated infections can be spread through the equipment used by cosmetologists, and the chances of infection being spread is slimmer if the licensed cosmetologist is sent out of a licensed salon. Ms. Dupuis stated working as a licensed cosmetologist in a licensed salon is currently legal and protects the homebound and handicapped. Mrs. Dupuis stated the Board has no jurisdiction over independently licensed cosmetologists.

Informational Testimony:

Lance Milson, Legal Council for the Board of Cosmetology, stated he was available for any questions from the Committee.

Questions From Committee Members and Responses:

Senator Rea asked Ms. Dupuis to explain normal sterilization techniques were. Ms. Dupuis answered sanitation involved liquid infection control, ultra-violet lights, and forms of quats.

Senator Rea asked which of the stated forms of sterilization are accepted for hepatitis. Ms. Dupuis answered quats are accepted as well as anything marked "EPA". Senator Rea asked if the cosmetologist had to autoclave their equipment. Ms. Dupuis responded they did not.

Senator Gage asked Ms. Dupuis if a person could be a licensed operator without working in a licensed establishment. Ms. Dupuis answered yes. Senator Gage asked if there were any licensed operators not working in a licensed salon. Ms. Dupuis answered if they were not in a licensed establishment, they were not operating. Senator Gage asked if the Board could take a license from someone who was licensed and operating outside of a licensed salon if that person was not complying with the sterilization regulations. Ms. Dupuis answered the Board does have the power to fine, imprison, or revoke licenses. Senator Gage then asked if the power does not give the Board enough clout to control the situation. Ms. Dupuis answered no.

Senator Kennedy asked Ms. Dupuis what she would propose the homebound and handicapped people do for cosmetic care. Ms. Dupuis answered they may call a licensed establishment and receive services. Senator Kennedy then asked if the main opposition of the Board was they wanted someone employed in a salon to render services. Ms. Dupuis answered yes. She stated the only situation which is covered under current law is one where an employee from a licensed salon renders services to a homebound or handicapped person. Senator Kennedy asked if a licensed cosmetologist may fix somebody's hair for no charge. Ms. Dupuis answered they may not if they are being sent from a licensed establishment.

Senator Kennedy stated home care is a major issue and asked why the cosmetology profession is not trying to move toward home care. Mr. Stekly answered the Cosmetology Board feels retired or non working cosmetologists will take advantage of the situation because they would not fall under the Boards sanitation regulations.

Senator Kennedy asked Mr. Milson if barbers would fall under the same regulations. Mr. Milson answered barbers' sanitation rules are similar to those of the Board of Cosmetologists.

Senator Klampe asked Mr. Milson if salons fall under the authority of OSHA. Mr. Milson redirected the question to Ms. Dupuis who answered salons must abide by OSHA laws. Senator Klampe asked if OSHA has strict regulations in regards to home care for cosmetologists. Ms. Dupuis answered OSHA protects the safety and protection of the employees in a business.

Senator Rea asked Mr. Stekly about the Board's authority to check on any licensed person. Mr. Stekly answered the Board has authority over licensed salons only.

Senator Gage asked any of the operators of salons to state their opinion. Rick Tucker, representing Farrell Griffin, stated there are retired people who keep up their licenses. The Board may rescind a license if a person does not comply with the rules.

Senator Lynch asked Mr. Stekly how much money the salon receives from cosmetologists who work out of their salons. Mr. Stekly answered it is done on a commission. Senator Lynch then asked what would prevent a licensed operator from a licensed salon from making a mistake. Mr. Stekly answered a salon would monitor the cosmetologist more closely than an independent person, but a mistake could still happen.

Senator Wilson asked Mr. Stekly if the independent group would be regulated in the same manner as the cosmetologists. Mr. Stekly answered if the cosmetologists started to work out of their homes the Board would not be able to police the situation.

Senator Mesaros asked Mr. Stekly if licensed person had to abide by the regulations. Mr. Stekly answered all licensed people must abide by the regulations, but the salon owners are easier to monitor.

Senator Klampe asked Mr. Stekly if OSHA gives the salon control and regulation over the employees, where an independent person would not have that protection. Mr. Stekly answered OSHA is set up to protect the employees and the Cosmetology Board is set up to protect the public.

Senator Rea asked Mr. Stekly who does the inspection. Mr. Stekly answered there are two state inspectors who do the inspection for the Department of Commerce.

Senator Bruski-Maus asked Mr. Stekly about the cost factor of a licensed cosmetologist versus a neighbor who is licensed. Mr. Stekly answered the chances of the neighbor being caught were slim, but would be in violation of the law.

Senator Gage asked if cosmetologists are educated on sterilization techniques and are they required to take an oath upon attaining their license. Mr. Stekly answered yes. Senator Gage asked if the licensed people were responsible people. Mr. Stekly answered the majority of the people are responsible, but there are a handful of people who let their responsibility lapse. Senator Gage asked what the status of a person giving a home perm to a friend was. Mr. Stekly answered they were not in violation of a law. Senator Gage asked if a person lets their license lapse and goes and cuts hair, then they would not be in violation of the law. Mr. Stekly stated that was correct.

Senator Christiaens asked Mr. Stekly where the morality and stature of a licensed cosmetologist was stated. Mr. Stekly answered he couldn't remember exactly where it was, but that it existed in current statute.

Senator Christiaens asked Mr. Milton where the causes for suspension of a license were stated under law. Mr. Milton answered MCA 37-31-331. Senator Christiaens then asked Mr. Milton if he knew of any cases of hepatitis which had been spread through unclean hair tools. Mr. Milson answered he had no information on any such cases.

Senator Gage asked why HB 34 was not included in HB 49. Mr. Stekly answered the bills were separate because of their intents and added some of the wording in HB 49 needed to be amended.

Closing by Sponsor:

Representative Davis closed on HB 34 stating its intent was to allow handicap/homebound service from cosmetologists, and asked the Committee give favorable consideration to HB 34.

HEARING ON SB HB 49

Opening Statement by Sponsor:

Representative Ed Dolezal, House District 34, stated HB 49 was drafted at the request of Department of Commerce and seeks to generally revise cosmetology Laws. There are many revisions throughout HB 49 which would bring it into current bill drafting language. On page 15, there is a change in the number of hours of training required by professional teachers from 30 hours to 15 hours. Rep. Dolezal dispersed amendments (Exhibit #2) which would change the requirement for attendance at a cosmetology school from having two years of college to requiring a high-school diploma or GED. These amendments were a request of the Board of Cosmetology.

Proponents' Testimony:

Verna Dupuis, Member Board of Cosmetology, stated she supports HB 49 on the issue of requiring a high-school diploma.

Scott Stekly, Board of Cosmetology, read from a letter by Gerry Sorenson in support of HB 49 (Exhibit #3). Mr. Stekly then stated he was in support of HB 49 because he felt it was necessary for anyone attending Cosmetology school to have the background in chemistry and math which are required in high school for graduation.

Rick Tucker, representing Farrell Griffin, stated he would like to see HB 49 remain the way it is as far as high-school requirements are stated.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Christiaens asked Verna Dupuis why the continuing education for teachers was being dropped from 30 to 15 hours. Ms. Dupuis answered the National Accrediting Commission only requires 12 hours for accreditation. Senator Christiaens then asked how the credit hours were achieved. Ms. Dupuis answered the hours were achieved by taking classes which are educational in the field of management, psychology, cosmetology, communication or any college level class which was approved by the Board.

Senator Gage asked Ms. Dupuis how many applications for attendance the Board received from people who did not have their high school diploma or GED. Ms. Dupuis answered she had no answer. Vince Maddio, Maddio's School, answered he referred approximately 20% to adult learning centers for their GED certificate. He then added he would like to see an amendment where a student attending high school could also go to Cosmetology school while finishing up their high school education.

Senator Christiaens asked Scott Stekly to identify those classes approved as continuing education courses. Mr. Stekly answered any correspondence course which was approved before the course was taken could be approved if it had anything to do with teaching methods, psychology, cosmetology, education, or communications. Senator Christiaens then asked Mr. Stekly why a particular teacher had the Board refuse her request for continuing education credits. Mr. Stekly answered he would have to refer to the case in order to answer correctly.

Senator Rea asked Mr. Stekly how regular cosmetologists keep up to date on procedures without any requirement by the Board for continuing education. Mr. Stekly answered most of the cosmetologists attend classes.

Senator Lynch asked Mr. Stekly why a course would be denied in the case stated by Senator Lynch. Mr. Stekly answered he would have to check on the case to see why the course was denied.

Closing by Sponsor:

Representative Dolezal closed by stating HB 49 addresses some of the concerns the affected parties had with each other. Representative Dolezal asked the Committee to act favorably on the amendments and on HB 49.

Announcement:

Bart Campbell announced the editors had run into problems with the title on SB 161 and had to be amended. The request had been for the title to be changed so "removing community support certification criteria" was struck and "further define statewide loan funds" was inserted. Mr. Campbell stated the language of "statewide loan fund" was not found in SB 161. Mr. Campbell had talked to the Department, and had they had reached an agreement on the terminology as follows:

"modify certification requirements for statewide microbusiness development corporations"

Mr. Campbell stated the Department felt the above language more clearly reflected what SB 161 was trying to do.

EXECUTIVE ACTION ON SB 161**Motion/Vote:**

Senator Christiaens moved SB 161 BE AMENDED. MOTION CARRIED UNANIMOUSLY.

Motion/Vote:


Senator Christiaens moved SB 161 DO PASS AS AMENDED. MOTION CARRIED UNANIMOUSLY.

Announcement:

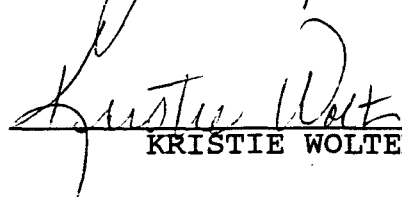
Senator Lynch announced if anyone would like an amendment prepared on a bill, they should check with the Legal Council to do so.

ADJOURNMENT

Adjournment: 11:15 a.m.



SENATOR J.D. LYNCH, Chair



KRISTIE WOLTER, Secretary

JDL/klw

ROLL CALL

SENATE COMMITTEE Business & Industry DATE Jan 26, 1993

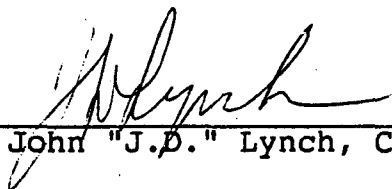
| NAME | PRESENT | ABSENT | EXCUSED |
|---------------------|---------|--------|---------|
| Senator Lynch | ✓ | | |
| Senator Christaens | ✓ | | |
| Senator Bruski-Maus | ✓ | | |
| Senator Gage | ✓ | | |
| Senator Hager | | | |
| Senator Harding | ✓ | | |
| Senator Kennedy | ✓ | | |
| Senator Klampe | ✓ | | |
| Senator Koehnke | ✓ | | |
| Senator Mesaros | ✓ | | |
| Senator Rea | ✓ | | |
| Senator Toews | ✓ | | |
| Senator Wilson | ✓ | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 26, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration Senate Bill No. 161 (first reading copy -- white), respectfully report that Senate Bill No. 161 be amended as follows and as so amended do pass.

Signed: 
Senator John "J.D." Lynch, Chair

That such amendments read:

1. Title, line 7 and 8.

Following: "LOANS;"

Strike: "REMOVING COMMUNITY SUPPORT CERTIFICATION CRITERIA"

Insert: "MODIFYING CERTIFICATION REQUIREMENTS FOR A STATEWIDE
MICROBUSINESS DEVELOPMENT CORPORATION"

-END-



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE ERVIN DAVIS

HOUSE DISTRICT 53

HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620
PHONE: (406) 444-4800

HOME ADDRESS:
604 N. MAIN
CHARLO, MONTANA 59824
PHONE: (406) 644-2740

COMMITTEES:
EDUCATION
STATE ADMINISTRATION
AGRICULTURE

TESTIMONY HB 34

January 18, 1993

MEMBERS OF THE BUSINESS COMMITTEE:

My name is Ervin Davis, Representative, HD 53, Lake County.

House Bill 34 is a physically disadvantaged oriented bill. It addresses a concern involving handicapped and citizens in rest or nursing homes or are home-bound. House Bill 34 would allow a current licensed cosmetologist to go to the residence at the request of the handicapped individual. Currently, a request must go through a licensed salon.

In cases where the cosmetologist has retired, is part-time or has sold the salon but remains licensed, under current law the cosmetologist is not allowed to legally answer a request to perform cosmetology in an individual's home or place of residence such as a rest or nursing home. House Bill 34 would allow that handicapped individual a choice of cosmetologist, and usually that choice would be for the retired cosmetologist who had performed that service over the years.

Those of you who have spent time with or around home-bound and handicapped individuals know how difficult it is for that individual to get to a beauty salon, especially during inclement weather.

I will stop here and allow for testimony and will close later.

=====

House Bill 34 addresses only the home-bound and handicapped individuals, not others who are physically capable of getting to the beauty shop. House Bill 34 may, in fact, reduce the numbers of "unlicensed" cosmetologists, those already performing cosmetology functions.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

DATE Jan 26 1993

BILL NO. HB 34

The bottom line of HB 34 is that the home-bound or handicapped individual would have a choice of a cosmetologist, probably the one living just across the road who could go to the individual's home on a weekend or an evening, without making a long distance phone call to a beauty shop to schedule an appointment.

If sanitation is the issue, then I challenge the board to defend a position that allowing a retired, or currently, licensed cosmetologist to leave a shop, which was inspected last June, 1992, would change any personal sanitary habits in the evening or on weekends. Inspecting and certifying a beauty salon, in my constituents' opinions, certainly doesn't indicate unsanitary habits of the cosmetologist after leaving the salon.

The real issue in HB 34 is that one who is physically disadvantaged ought to be provided with an opportunity and especially A CHOICE of a cosmetologist, whether or not assigned to a shop.

PROBLEMS: Rural Montana, home-bound, handicapped, long distance phone calls, sanitation (combs, brushes, scissors, etc.)

Ervin Davis
Representative HD 53

ED/eb

Amendments to House Bill No.49
Third Reading Copy

Requested by Representative Dolezal
For the Committee on Business and Industry

Prepared by Bart Campbell
January 26, 1993

1. Title, line 9.
Following: "~~SCHOOL,~~"
Insert: "REQUIRING A HIGH SCHOOL DIPLOMA TO PRACTICE COSMETOLOGY"
2. Page 5, lines 22 and 23.
Strike: "HAVE" on line 22 through "OR" on line 23
3. Page 5, line 23.
Following: "possess"
Insert: "a high school diploma or"
4. Page 7, line 10.
Strike: "must" through "SCHOOL,"
5. Page 7, line 10.
Following: "possess"
Insert: "a high school diploma; an"
6. Page 7, line 11.
Strike: "THE"

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 2

DATE Jan 31, 1993

BILL NO. HB 49

603 - 24th Street W.
Billings, MT

January 19, 1993

Bill 49
~~Dear Chairman & Board Members,~~ —

Dear Carol & Board Members,

I was very concerned after reading the amendments that the House Committee made to the bills submitted by the Board to the legislature.

As a school owner, I felt these changes were long overdue. All accredited cosmetology schools in Montana are accredited by NACCAS, and in order for students to be eligible for federal student aid, they must possess a high school diploma or a GED.

It is a requirement that has been in effect for a number of years and I felt our state requirements should be in line with federal requirements.

Because of the threat of aids & other communicable diseases, and the more stringent requirements of OSHA, a tenth grade education is just not adequate, in my opinion.

I understand that two or three Board members met with several officers of the Montana Cosmetology association, and they went over these changes together.

The MCA committee agreed with the changes and said that since the Board had worked on it they agreed that the Board should present the bills and they wouldn't submit their own since they were similar.

for the first time in years the Board & MCA have a good rapport and I feel they are all concerned with upgrading our profession.

Bill 34
Another concern is changing the law so that any licensed hairdresser can go into homes and perform services without being employed by a salon.

If this is allowed most of those people won't report their income and will therefore not pay taxes or contribute to Social Security.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 3

DATE Jan 26, 1993

BILL NO. SB HB 49

Can the state of Montana afford to lose this revenue? As it is it is hard
Can the state of Montana afford to lose this revenue? As it is it is hard
to police but if this becomes law it will be impossible to track.

49
Another concern of mine, as a school owner of twenty years, is the
deletion of the time limit for a student to complete the cosmetology courses.
Again the federal government requires a student to complete within one and
one half times of the course length. In Montana that would be 18 months.
If the student does not complete in that time frame he or she loses the
federal student aid.

I wish I could have heard the committee's discussion as I don't understand
why they amended the bills as presented.

There must be continuity in the training of a cosmetologist, and those who
don't attend on a regular basis do not become proficient and they have a
much more difficult time keeping a job.

I would appreciate it if you would convey my concern to the proper committees
and hopefully these amendments can be re-considered.

Respectfully,

Geraldine Sorenson

DATE Jan. 26, 1993

SENATE COMMITTEE ON # Business & Industry

BILLS BEING HEARD TODAY: HB 34 HB 49

| Name | Representing | Bill No. | Check One | |
|-----------------|----------------------------|----------|-----------|--------|
| | | | Support | Oppose |
| Chris J. Curry | Maddux's | 34 & 49 | ✓ | |
| Anita Indusa | Self | 34 & 49 | ✓ | |
| Malcolm | Self | 34 & 49 | ✓ | |
| Bruce Allen | Self | 34 & 49 | ✓ | |
| Mike Keuntz | Self | 34 & 49 | ✓ | |
| Kerry Ware | Self | 34 & 49 | ✓ | |
| Theresa Platter | Self | 34 & 49 | ✓ | |
| Stacy Negethon | Self | 34 & 49 | ✓ | |
| Randy Wike | Self | 34 & 49 | ✓ | |
| Steve Albright | Self | 34 & 49 | ✓ | |
| Carol E. Maffei | Maddux's Consulting Group | 34 & 49 | ✓ | |
| Carol DeLise | Self | 49 & 34 | — | |
| Verna Dupuis | State Board of Cosmetology | 49 | ✓ | |
| Scott Steky | Board of Cosmetology | 49 | ✓ | |
| Scott Steky | " " | 34 | | ✓ |
| Verna Dupuis | " " " | 34 | | ✓ |

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY