

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By Sen. Bill Yellowtail, on January 28, 1993, at 10:15 a.m.

**ROLL CALL**

**Members Present:**

Sen. Bill Yellowtail, Chair (D)  
Sen. Sue Bartlett (D)  
Sen. Chet Blaylock (D)  
Sen. Bob Brown (R)  
Sen. Eve Franklin (D)  
Sen. Lorents Grosfield (R)  
Sen. Mike Halligan (D)  
Sen. John Harp (R)  
Sen. David Rye (R)  
Sen. Tom Towe (D)

**Members Excused:** Sen. Doherty, Sen. Crippen

**Members Absent:** NONE

**Staff Present:** Valencia Lane, Legislative Council  
Rebecca Court, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 229  
HB 63  
Executive Action: SB 150  
HB 63  
SB 46

**HEARING ON HB 63**

**Opening Statement by Sponsor:**

Representative Keller, District 83, stated that HB 63 eliminates the requirement for raffle permits for religious groups and nonprofit organizations. Counties are faced in having to absorb the administrative cost associated with these permits. Counties are requesting that permits not be required for church groups or nonprofit organization raffles. Representative Keller requests a Do Pass recommendation.

**Proponents' Testimony:**

Vernon Peterson, Fergus County Commissioner, supports HB 63. Mr. Peterson asked the Committee to remove the burden requiring schools to get a raffle permit. This law is not enforceable. We want to remove that burden from the public and would ask your support in HB 63.

Gordon Morris, Director of Association of Counties, supports HB 63.

**Opponents' Testimony:**

NONE

**Questions From Committee Members and Responses:**

NONE

**Closing by Sponsor:**

Representative Keller asked the Committee for a Do Pass recommendation.

**HEARING ON SB 229****Opening Statement by Sponsor:**

Senator Stang, District 26, stated that SB 229 authorizes and exempts nonprofit organization's poker runs from the gambling rules in Montana. SB 229 applies to only poker runs, not to any other form of gambling. The present problems with poker runs, is the cost of the permit which is \$500.00. To hold a poker run it has to start at a licensed dealer and end at a licensed dealer. Most often the dealers are bars. SB 229 would make it possible for nonprofit organizations to have poker runs and to keep all of their proceeds. Senator Stang handed out amendments. (Exhibit #1)

**Proponents' Testimony:**

Ken Hoovestol, Montana Snowmobile Association, told the Committee that poker runs have been going on for years by a variety of groups. Mr. Hoovestol told the Committee that requiring permits for poker runs is burdensome, costly, and not always done legally. Mr. Hoovestol talked to Governor Racicot about the poker runs. Governor Racicot said that not including the poker run in the gambling bill was an oversight which would be corrected in SB 229. SB 229 corrects that oversight. Mr. Hoovestol talked about Senator Stang's amendments. Mr. Hoovestol told the Committee that poker runs are done for fun and charity purposes. Mr. Hoovestol handed out a summary testimony. (Exhibit #2)

Linda Ellison, Montana Trail Riders Association, said that the inadvertent limitations on use of roads and highways in Montana,

places the start and finish lines for poker runs in out of the way places. Ms. Ellison stated that SB 229 allows organizations to keep the money generated by poker runs.

Janet Jessup, Administrator of the Gambling Control Division, spoke in favor of SB 229 and the amendments proposed by Senator Stang.

Representative Liz Smith, District 48, strongly supports SB 229. The imposition of the preexisting statute has the ability not to allow volunteers to participate in needy and charitable causes. Representative Smith told the committee that many organizations raise money for needy causes with poker runs.

Ken Hoovestol, Montana Boating Association, supports SB 229.

**Opponents' Testimony:**

NONE

**Questions From Committee Members and Responses:**

Senator Towe asked Ms. Jessup about the definition of authorized gambling. Ms. Jessup stated the bill drafter added the language and was not sure why.

Senator Towe asked Ms. Jessup about an exemption of authorized gambling. Ms. Jessup told the Committee that the bill drafter chose the language and was not sure why SB 229 does not exempt authorized gambling.

Senator Towe asked Ms. Jessup about making authorized gambling exempt. Ms. Jessup said the intent of SB 229 is to provide an exemption for nonprofit organizations.

Senator Towe asked Senator Stang about authorized gambling. Senator Stang replied that SB 229 could be amended to say that poker runs are authorized, and leave the word gambling off.

Senator Towe asked Senator Stang if the intent of SB 229 was to exempt gambling regulations for the poker runs. Senator Stang said that was correct.

Chair Yellowtail asked Ms. Jessup if the Gaming Advisory Council intended to submit legislation in the matter of overrides. Ms. Jessup was not sure.

Senator Halligan commented that it is preferable for the gaming commission to have the authorization of gambling and not the exemption to make sure that it is controlled by the gaming commission and not exempt. Senator Halligan feels the reason SB 229 says authorized gambling is because the gaming commission will have control.

Chair Yellowtail expressed concern on whether the Committee should examine the rest of the gaming statute where it defines other authorized gambling and place the definition there. Chair Yellowtail asked Valencia Lane to examine that question so it is consistent throughout the statute, and will not interfere with the intent of the bill.

Mr. Hoovestol said the reason the gaming commission wanted SB 229 to authorize gambling, is that there would be an agency to be sure that it is handled properly and only legal games would be played. The gaming commission does not want profit making organizations to do this to make money, so the wording says only nonprofit organizations can retain a portion of the proceeds whereas a profit making organizations could not make money on these activities.

Senator Towe suggested to Mr. Hoovestol to use the same language in SB 229 that is used in reference to senior citizens.

**Closing by Sponsor:**

Senator Stang said the Committee has the idea of what SB 229 would do. Senator Stang said SB 229 was brought before the legislature because bar owners are concerned about liability and exposure in connection with poker runs. SB 229 was one of the first bills that was requested to be drafted right after the election. It has been redrafted has been through the gaming division. Senator Stang asked the Committee to look at SB 229 to make sure that it is done properly.

**EXECUTIVE ACTION ON SB 150**

**Motion:**

Senator Bartlett moved to amend SB 150.

**Discussion:**

Senator Bartlett explained the amendments. The main body of the SB 150 allows fees to be collected for the cost of the blood testing when it is required to establish paternity to the party that denies the paternity. The proposed amendment on page 7, line 16 would read after "following" insert "or presumed under 50-5-234." That section of law that indicates if the blood test shows 95% percent or higher probability of paternity, paternity is presumed on that basis. SB 150 would allow recovery of the costs of the blood tests when asked the outcome, as well as when paternity is established.

**Vote:**

Motion CARRIED UNANIMOUSLY to amend SB 150.

**Motion/Vote:**

Senator Bartlett moved SB 150 DO PASS AS AMENDED. Motion CARRIED UNANIMOUSLY.

**EXECUTIVE ACTION ON SB 63**

**Motion/Vote:**

Senator Rye moved HB 63 BE CONCURRED IN. Motion CARRIED UNANIMOUSLY.

**EXECUTIVE ACTION ON SB 46**

**Discussion:**

Senator Halligan explained the amendments (Exhibit #3)

Senator Towe asked Senator Halligan if it refers to the partnership interest of the partner or other assets unrelated to the partnership. Senator Halligan said it includes interest plus the other interest that might be available to the bank.

Senator Towe asked Senator Halligan about amendment #4. Senator Halligan said the amendment clarifies that the Bankruptcy Code, not the Uniformed Partnership Act, governs the issue of levying execution actions against a partner for the debts of a bankrupt partner.

**Motion:**

Senator Halligan moved TO AMEND SB 46.

**Discussion:**

Senator Towe asked Senator Halligan about Amendment #4. Senator Halligan read Amendment #4.

Senator Towe asked Senator Halligan about bankruptcy in a partnership. Senator Halligan told the Committee that the bankruptcy code governs bankruptcy, and not the uniform partnership act.

Senator Towe told the Committee that he was satisfied with SB 46.

**Vote:**

Motion to amend SB 46 CARRIED UNANIMOUSLY.

**Motion/Vote:**

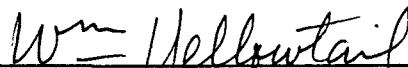
Senator Halligan moved SB 46 DO PASS AS AMENDED. Motion CARRIED UNANIMOUSLY.

January 28, 1993

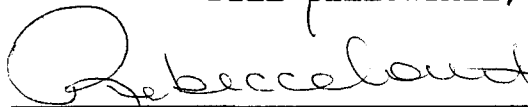
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ADJOURNMENT

Adjournment: 11:58 a.m.



BILL YELLOWTAIL, Chair



REBECCA COURT, Secretary

BY/rc

# ROLL CALL

SENATE COMMITTEE

Judiciary

DATE 1-28-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty			X
Senator Brown	X		
Senator Crippen			X
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp	X		
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock	X		
Senator Rye	X		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 29, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 46 (first reading copy -- white), respectfully report that Senate Bill No. 46 be amended as follows and as so amended do pass.

Signed: William Yellowtail  
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Page 16, line 24.

Following: first "the"

Strike: "usual way"

Insert: "ordinary course of"

2. Page 17, line 8.

Following: "the"

Strike: "usual way"

Insert: "ordinary course of"

3. Page 25, line 9.

Following: "(b)"

Insert: "(i)"

4. Page 25, line 14.

Following: "dismissed;"

Insert: "and

(ii) Title 11 of the United States Code permits a judgment creditor of a partner to levy execution against the assets of the partner to satisfy a judgment based on a claim against the partnership;"

5. Page 57, line 21.

Following: "positive"

Insert: "account"

-END-



SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 28, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 150 (first reading copy -- white), respectfully report that Senate Bill No. 150 be amended as follows and as so amended do pass.

Signed: Wm Yellowtail  
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Page 7, line 16.

Following: "established"

Insert: "or presumed under 40-5-234"

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 28, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 63 (first reading copy -- blue), respectfully report that House Bill No. 63 be concurred in.

Signed: Wm Yellowtail  
Senator William "Bill" Yellowtail, Chair

Amendments to Senate Bill No. 229  
First Reading Copy

Requested by Sen. Stang  
For the Committee on the Judiciary

Prepared by John MacMaster  
January 26, 1993

1. Page 2, line 12.

Strike: "An"

Insert: "A nonprofit"

2. Page 2, lines 12 and 13.

Strike: "granted" on line 12 through "(c)(19)" on line 13

Insert: ", as defined in 23-5-112,"

SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 1  
DATE 1-28-93  
BILL NO. SB229

Testimony presented by  
Montana Snowmobile Association  
before the  
Senate Committee on the Judiciary 1/28/93

Page 1, Lines 12 and 13. Exempts poker runs.

Page 1, Lines 21 through 24. Card games under 23-5-311 includes all commonly played games.

Page 1, Lines 25 through Page 2, Line 7. Defines what is commonly accepted as a poker run.

Page 2, Lines 7 and 8. Allows for more than one prize winner.

Page 2, Lines 12 and 13. Provides the exemption for non-profit organizations from the requirements of a licensed premises and a licensed card dealer.

Page 2, Lines 14 and 15. Allows non-profit organizations to use poker runs as a fund raiser.

Amending Page 2, Lines 12 and 13. Changing definition of a non-profit organization.

23-5-112 defines a non-profit organization as -

"Non-profit organization" means a non-profit corporation or non-profit charitable, religious, scholastic, educational, veterans, fraternal, beneficial, civic, senior citizens', or service organization established for purposes other than to conduct a gambling activity."

Page 2, Lines 16 and 17. Establishes this act to be effective upon passage and approval.

Reason: So non-profit organizations can benefit as soon as possible.

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SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 2  
DATE 1-28-93  
FILE NO. SB 229

Amendments to Senate Bill No. 46  
First Reading Copy

Requested by Senator Halligan  
For the Committee on Judiciary

Prepared by Valencia Lane  
January 27, 1993

1. Page 16, line 24.  
Following: first "the"  
Strike: "usual way"  
Insert: "ordinary course"

2. Page 17, line 8.  
Following: "the"  
Strike: "usual way"  
Insert: "ordinary course"

3. Page 25, line 9.  
Following: "(b)"  
Insert: "(i)"

4. Page 25, line 14.  
Following: "dismissed;"  
Insert: "and

(ii) Title 11 of the United States Code permits a  
judgment creditor of a partner to levy execution against the  
assets of the partner to satisfy a judgment based on a claim  
against the partnership;"

5. Page 57, line 21.  
Following: "positive"  
Insert: "account"

SENATE BILL NO. 46  
EXHIBIT 3  
DATE 1-28-93  
PAGE 5846

DATE 1-28-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 229 Stang  
HB 63 Keller

Name	Representing	Bill No.	Check One	
			Support	Oppose

Ken Heavestol	Mt. Snowmobile Assn.	229	✓	
Greg Lewis	U of M Phi Gamma Alpha	<sup>HB</sup> 63	✓	
Dorothy Morris	MPLA	63	✓	
Janet Jessy	Justice	229	✓	
Vernon Petersen	Fergus County	HB 63	✓	
Sumi Shapiro	Fergus County	HB 63	✓	
Liz Smith	# 48	229	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY