

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By CHAIRMAN STEVE BENEDICT, on February 18, 1993,
at 7:00 A.M.

ROLL CALL

Members Present:

Rep. Steve Benedict, Chairman (R)
Rep. Sonny Hanson, Vice Chairman (R)
Rep. Bob Bachini (D)
Rep. Joe Barnett (R)
Rep. Ray Brandewie (R)
Rep. Vicki Cocchiarella (D)
Rep. Fritz Daily (D)
Rep. Tim Dowell (D)
Rep. Alvin Ellis (R)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Dick Knox (R)
Rep. Don Larson (D)
Rep. Norm Mills (R)
Rep. Bob Pavlovich (D)
Rep. Bruce Simon (R)
Rep. Carley Tuss (~~R~~) D
Rep. Doug Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon, Legislative Council
Claudia Johnson, Committee Secretary

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

Committee Business Summary:

Hearing: HB 548, HB 465, HB 461, HB 462 & HB 635
Executive Action: HB 465, HB 461, HB 462, HB 635, HB 585,
HB 548, HB 596, HB 422, & HB 155

HEARING ON HB 548

Opening Statement by Sponsor:

REP. BILL STRIZICH, House District 41, Great Falls, said HB 548
will control access to the sale of tobacco products to minors.

This will be done by prohibiting the sale of these products to individuals under 18 years of age. HB 548 will also prohibit the sale of these products through vending machines in public places and prohibit the sale of other than sealed packages. He said it is hard to believe that in 1993, Montana is the only state that doesn't have a law prohibiting the sale of tobacco to minors. He distributed a packet of laws from other states and their restrictions on this issue. According to the Centers for Disease Control, an estimated one million minors start smoking their first cigarette each year, which is about 3,000 per day. It was estimated in 1992, that teenagers bought 947 million packs of cigarettes and 26 million cans of smokeless tobacco. He said that 75 percent of current smokers became tobacco users and addicted to tobacco by the age of 28. In 1991, the Montana School Base Youth Risk Survey which was conducted by the Montana Office of Public Instruction, found that in grades 9 through 12, 21.8 percent of all students said they smoked regularly, and 33 percent of the males reported the use of smokeless tobacco within the last 30 days. The immediate age of the first cigarette used was 12 years of age. In the School Tobacco Referendum which was authorized by the 1991 Legislature, 59 percent of the 50,000 students involved in grades 9 through 12, voted in favor to request the stores to refuse the sale of cigarettes and tobacco products to persons under 18 years of age. The referendum was intended to acknowledge that adolescents are capable of mature decisions, but the students felt that conscious rejection to tobacco products by themselves was the best way to go. He said the health warning sign found on the tobacco products is there for a purpose. The surgeon general saw fit to give the public adequate warning about the use of tobacco, and the reason for this bill is to prohibit the sale or distribution of single cigarettes. Such sales of all tobacco products fails to adequately warn all users of tobacco products. He pointed out that Federal Public Law 12-3-321, requires all states by October 1, of 1994 to ban the sale and distribution of tobacco to minors under 18 years of age. If not enacted in this state, Montana will lose a large portion of funds designated for the Alcohol and Drug Abuse and Mental Health Programs. He talked about the Synar Amendment (Section 1926 of the Public Services Act), which provides a condition upon receiving the \$4,000,000 in block grant funds in Montana. Additionally, the bill requires that the Community Substance Abuse Prevention programs include efforts to reduce under age use of tobacco products. He said there are a couple of key issues that are important to this bill: 1) Montana needs to get the kids to think about not using tobacco. He said it is clear there are dangers to a person's health, particularly with younger Montanans; and 2) the compliance issue with the federal law is holding Montana hostage to get the people to think about themselves. He distributed a letter from Robert K. Ripley, American Cancer Society, Montana Division, Inc. Mr. Ripley made reference in his letter to the fact that cancer kills more people than any other disease, and it can be prevented. **EXHIBITS 1 & 2**

Proponents' Testimony:

Jerome Anderson, Attorney in Helena, representing the Tobacco Institute, said for a number of years the Tobacco Institute has supported a program across the United States to educate children about the illegal use of tobacco and to discourage the use of tobacco products by persons under the age of 18. He said they supported a bill last session which would have done the same thing this bill intends to do. He distributed information on the federal program that **REP. STRIZICH** referred to regarding the dispensing of funds for the Drug, Alcohol Abuse and Mental Health Programs to the various states with the proposition that the states must issue annual reports on their reasonable efforts to lessen the sale of tobacco products to minors. All of the states except Montana are doing this and he urged the committee to pass this legislation. He said **REP. PAVLOVICH** will be offering amendments to HB 548 during the executive session. He said the amendments address the issue on civil license which is already on the books in Montana. The issuance of additional licenses which this bill calls for are redundant. **EXHIBIT 3**

Charles Brooks, representing Montana Retail Association, said the association rises in support of the concept of HB 548, but do have some problems with it: 1) he said the association is opposed to the sale of tobacco products to anyone under the age of 18. The retailers have a responsibility to abide by the laws and to set an example. Responsible retailing is critical where this type of product is concerned. It is legal for them to offer tobacco products to the stores in a free enterprise system as long as they apply their activities to both state and federal laws. He said there are federal subsidies involved with this product. He addressed section 8 which deals with the penalties. The retailers feel they are being asked by the businesses to help solve a health and social problem that the schools, medical communities, parents, PTA, and the Lung and Cancer Associations have not been able to solve. The retailers are being asked to handle the problem and, if they fail, the state wants to provide penalties that are exorbitant. He suggested to the committee what he felt the penalties should be: 1) first violation should be \$100; 2) second violation should be \$200; 3) third violation should be \$300; and 4) fourth violation should be \$500. He said the amendments that will be offered by **REP. PAVLOVICH** will take out the removal of licenses and/or the penalty for retailers. He said the association agrees one thousand percent with the concept of HB 548 not to sell to persons under 18 years of age.

Gene Phillips, representing the Smokeless Tobacco Council, Kalispell, said he is in support of this bill. He said this is the fourth session he has testified in support of this issue and the age of purchase restriction on behalf of the Smokeless Tobacco Council. He said **REP. PAVLOVICH's** bill was tabled in favor of **REP. BRADLEY's** bill that called for a referendum of the students. It only asked for a voluntary ban and has not been effective in curbing the use of smokeless tobacco products by the

youth. He strongly urged the committee to support HB 548 this session.

Bill Klokot, Supervisor with the Department of Revenue, Business Tax Section, said he met with REP. STRIZICH and wanted to propose some amendments to the bill: 1) align the licensing of this bill with the current cigarette retail license. Upon passage of this bill and before the effective date on October 1, the department wants to get the information out to the public and retailers that need to be licensed, then license them from October 1, 1993 through June 30, 1994. This way, the license would be good for three-quarters of the year. In the first part of June they would mail, along with their regular cigarette (current) license, the application for this license to all of the retailers. Then the license would be combined for FY 1995. He wanted an amendment to place a minimum fee of \$5 on the license, which is also the current price of the cigarette license.

Bob Moon, Department of Health, said he was speaking on behalf of Director Bob Robinson, who supports HB 548. It represents minimal public health standards to enforce a law which would make Montana the 50th state to restrict tobacco access to the youth. EXHIBIT 4

Kathy Seacat, Legislative Coordinator for the Montana Congress of Parents, Teachers and Students (PTSA), asked the committee to support this bill which will reduce the number of young people in Montana who use tobacco products and prohibit the use of tobacco products in the public schools. EXHIBIT 5

Darrell Bruno, Administrator for the Alcohol and Drug Abuse Division, Department of Corrections and Human Services, addressed the Synar Amendment which is the Federal Substance Abuse Treatment & Prevention Block Grant. The department currently receives \$2.7 million in grants for the Chemical Dependency Treatment Prevention Services which go to community programs. He said if HB 197 isn't passed out of the committee and enforced because of the Synar Amendment which was passed in the last session of Congress, and is in effect at this time, the state will lose \$270,000 in the first year of their block grant. The second year they will lose \$540,000, and by 1996 they stand to lose \$810,000. In 1998, and thereafter, for each year they will lose \$1,080,000. He distributed information explaining the Synar Amendment. EXHIBITS 6 & 26

Bill Stevens, Montana Food Distribution Association, said the association as retailers support HB 548. They also support the suggested changes by Mr. Brooks of the Retail Association. EXHIBIT 7

Kathy McGowan, representing Chemical Dependency Programs of Montana, and the Montana Council of Mental Health Centers, reiterated the comments by Mr. Bruno regarding the Synar Amendment. She said if the committee does not pass this bill to

receive the block grant, the department will be under a lot more stress than they already are. She is in a battle at this time to save \$1 million in general funds for the mental health programs. She urged the committee to support HB 548.

Spencer Sartorius, Administrator of the Health Enhancement Division of OPI, said they support the bill to prohibit the sale of tobacco products to minors. The division administered the student "tobacco referendum" required by the 1991 Legislature in HB 849. He urged the committee to pass HB 548. **EXHIBIT 8**

Fred Fisher, Board of Crime Control, Department of Justice, said there has been research done since 1987 showing the use of tobacco is related to poor academic performance and the illegal use of alcohol and drugs. He urged support for HB 548. **EXHIBIT 9**

Patricia J. Crow, representing Paulette Kohman of the Montana Council for the Maternal and Child Health, said the agenda of the Council for the next generation has endorsed this effort to restrict tobacco sales to minors. They are concerned for Montana's youth, and respect for their opinion as expressed in the 1991 student referendum. **EXHIBIT 10**

Earl Thomas, American Lung Association of Montana, wanted to be on record in support of HB 548.

REP. BOB PAVLOVICH, House District 70, Butte, said he supports HB 548.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. BACHINI asked **Bill Klok** about the \$5 license, and how is it different than what the retailers already have? **Mr. Klok** said the cigarette retailers have to be licensed by the Department of Revenue at a cost of \$5. He said licenses are not required at this time for the sale of smokeless tobacco products in Montana. **REP. BACHINI** asked if cigarette retailers currently have a license, why is there a need for another \$5? **Mr. Klok** said their statutes define smokeless tobacco differently than cigarettes.

REP. BACHINI asked **REP. STRIZICH** why are there only fines for the retailers and not for the youth? **REP. STRIZICH** said it becomes a complicated matter when trying to place a fine on the youth from the perspective of a probation officer. He said to place a fine on a kid when there is clearly a can of Copenhagen in his pocket is senseless. When a probation officer is dealing with felonies, it seems redundant.

REP. DOWELL asked Earl Thomas about approaching this bill with penalties, and it was education [in the last session.] What approach has worked the best? Mr. Thomas said the information he has received show the penalties work the best. He informed the committee that the information came from Minnesota who has raised their penalties from \$1,500 to \$3,000.

REP. BRANDEWIE asked REP. STRIZICH if he could see the problem from the retailers' point of view, i.e., Mini Marts hiring kids between 17 & 18 years of age who might be slipping their buddies a pack, could this be a problem for the retailers? REP. STRIZICH said it probably would be.

CHAIRMAN BENEDICT informed the committee the bill from last session imposed penalties on the licensee, but the way this bill is written it will place the burden on the person who violates the law and they will be fined. REP. STRIZICH interjected it is a civil penalty. CHAIRMAN BENEDICT said the license holder is not subject to civil penalties if it is without their knowledge. He felt this clarified the issue for the committee members who think the kids aren't going to be punished if they violated the law.

REP. ELLIS asked Earl Thomas if he had any studies that showed the illegal sale of cigarettes to minors was reduced with this type of law? Mr. Thomas distributed information on a study done by the JAMA. The study was done in Santa Clara County, California, where an aggressive six-month campaign using community-wide media, direct merchant education, contact with executive officers of chain stores, and franchise operations owned by major companies, and the illegal over-the-counter sale of cigarettes to minors was reduced from 75 percent to 39 percent, but sales from vending machines was not reduced.

EXHIBIT 11

REP. BACHINI asked Earl Thomas if some of the responsibility of the fine was placed on the youth would it deter them from purchasing the product? Mr. Thomas said definitely.

REP. WAGNER asked REP. STRIZICH if the kids that are using tobacco products before this law is passed and are addicted, is there potential for an increase in shoplifting? REP. STRIZICH said it is rampant at this time, but will probably get worse. He said some of the parents will be buying tobacco for their kids.

Closing by Sponsor:

REP. STRIZICH closed urging the committee to pass HB 548 so Montana will not lose its federal funding grants.

HEARING ON HB 465Opening Statement by Sponsor:

REP. WILLIAM RYAN, House District 38, Great Falls, said HB 465 is an act to revise the laws relating to medicare supplement insurance; revising medicare supplement insurance minimum standards to comply with the Omnibus Budget Reconciliation Act of 1990. He said HB 465 is a continuing effort by the Montana Insurance Department to provide Montana seniors with information to help choose health insurance to supplement their medicare. HB 465 will help establish regulatory programs and meet the requirements. He said many of the changes in the bill are mandated by federal requirements to protect the consumer.

Proponents' Testimony:

Frank Cote, Chief Deputy Insurance Commissioner for Montana, said HB 465 is at the request of the State Auditor's Office. He said this is truly a senior citizen protection bill. The new medicare supplement laws are necessary as a result of the abuses that have taken place in the market place. In 1990, Congress passed the Omnibus Budget Reconciliation Act with new code sections that are designed to increase the ability for seniors to confidently purchase medicare supplements which best fit their needs. To eliminate the confusion, there will be standard policies throughout the United States which will be labeled A through J. Policy A will be the standard basic benefit; Policy B through J are the policies with different benefit choices. He said all of these policies must be identical, and the only difference will be the premiums set by the different companies. This will help the senior citizens do their comparison shopping for medicare supplements. He said there will be an open enrollment period of a six-month time frame in which an ineligible person may apply for medicare supplement and to receive that policy regardless of their health condition at that time. He said that medicare supplement policies are expected to provide reasonable benefits in relation to the premiums charged. This law will provide the ability to determine if the premiums are sufficient. The commissioner may hold a public hearing as part of making the determination and the commissioner may require a refund of premiums if they were too high from the previous year. Clarification of the additional terms, filing of advertisements, and regulation of agent compensation should help eliminate the abuse that has taken place in the market. Montana and Oregon are the only two states that have not passed and adopted this model regulation. EXHIBIT 27, 28 & 29

Tom Hopgood, representing the Health Insurance Association of America, said they support the auditor on this bill. HB 465 is primarily intended to conform to federal law. They do have one concern on page 6, line 9, regarding the commissioner's rulemaking procedure. It is the association's understanding that HB 465 will not enlarge the commissioner's function in ratemaking

nor additional powers to that function, and the rules that can be implemented by the commissioner under this inspection would only be for Montana rules and regulations through federal rules and regulations.

Tanya Ask, Blue Cross/Blue Shield, said the standardization of HB 465 will be good for the senior consumers who have medicare supplement contracts.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. SONNY HANSON asked Tom Hopgood to further define his concerns with HB 465. Mr. Hopgood said the language in the bill clearly defines the intent, and if he went to court he would feel comfortable that the commissioner's authority only extends from the state regulations to the federal regulations. He said if that language was placed in the bill, it would make his clients breathe a lot easier.

REP. LARSON asked Frank Cote about extending the ratemaking authority to the commissioner that Tom Hopgood was concerned about? Mr. Cote said Mr. Hopgood was correct in that this bill will not expand the ratemaking authority.

REP. LARSON asked Carol Roy, State Auditor's Office, what provisions of the bill are more comprehensive than the minimum the federal law will require? Ms. Roy said that the 75 percent loss ratio that is required on groups is already in Montana law and is more stringent than the federal requirement.

Closing by Sponsor:

REP. RYAN closed, thanking the people that drafted and put HB 465 together. He said it is a good bill and asked for the committee's support.

EXECUTIVE ACTION ON HB 465

Motion/Vote: REP. LARSON MOVED HB 465 DO PASS. REP. BRANDEWIE called the question. Voice vote was taken. Motion carried unanimously.

Vote: HB 465 DO PASS. Motion carried 18 - 0.

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HEARING ON HB 461 and HB 462

Opening Statement by Sponsor:

REP. BOB PAVLOVICH, House District 70, Butte, said HB 461 is an act that will require the posting of beer and table wine licenses. HB 462 repeals the 630 square inch limit on beer signs. He said there are problems with these two bills and said he would make the motion to table both of them.

Proponents' Testimony:

Roger Tippy, representing the Beer and Wine Wholesalers, said they support the motion to table both bills. He said if there had been a hearing on the merits on HB 461 and HB 462, there would have been a number of people here to testify on them. He said HB 461 is modeled after the Idaho law, which was written to guarantee that a small retailer is entitled to the same price as the larger exclusive businesses. The concept of posting prices is in effect in 21 states. He wanted to work on this issue more because the members are divided. He felt with some meetings over the interim with the Department of Revenue, and members from this committee invited to take part, maybe they could resolve the problems. He said HB 462 repeals the 630 square inch limit on the size of beer signs that can be displayed inside a bar.

Mona Jamison, Representing the Wine Institute, said they support Roger Tippy's comments.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

None

Closing by Sponsor:

REP. PAVLOVICH closed on HB 461 stating everyone agreed on the posting of prices. The wholesalers throughout Montana were not comfortable with this bill, and wanted to work it out in the interim. He said HB 462 surprises him as he has been in the bar business for over 41 years and didn't know the beer signs in the bars had to be a certain size.

EXECUTIVE ACTION ON HB 461

Motion: REP. PAVLOVICH MOVED HB 461 BE TABLED.

Motion/Vote: REP. ELLIS called the question. Voice vote was taken. Motion carried unanimously.

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Vote: HB 461 BE TABLED. Motion carried 18 - 0.

EXECUTIVE ACTION ON HB 462

Motion: REP. PAVLOVICH MOVED HB 462 BE TABLED.

Discussion: None

Motion/Vote: REP. DAILY called the question. Voice vote was taken. Motion carried unanimously.

Vote: HB 462 BE TABLED. Motion carried 18 - 0.

HEARING ON HB 635

Opening Statement by Sponsor:

REP. RUSSELL FAGG, House District 89, Billings, said HB 635 deals with changing the lien laws with the Secretary of State's Office. He explained the bill: 1) section 1 states that a lapsed lien cannot be continued past five years after the lien has left without the signature of the debtor, and will limit the renewal of a lapsed lien to a reasonable time period so there will not be dead liens in the system, and will not have an effect on secured parties. The deletion of the retirement of the debtor's county of residence removes information no longer needed. In the past, information was required for conversion purposes when the liens shifted from county filing to state filing. 2) Section 2 removes transition language that was put in place when the system shifted from the county to state filing. 3) Section 3 language is no longer needed because the transition process has already taken place and is completed. Section 4 gives the Secretary of State the authority to reject or remove fraudulent or improper liens. He said the reason for the bill is because individuals around the state are misusing the UCC filing system by filing improper or fraudulent liens. He gave a synopsis of improper filing. An individual filed a lien against all three of the county commissioners in Yellowstone County, the county sheriff, several of the previous county commissioners, Governor Stephens, one of the supreme court judges, and several people from a law enforcement agency. It reads; "are to set forth, therein 'public bond' for the payment for the enclosed TRUE BILL set against a sovereign citizen. A draft will be drawn thereupon for the sum of \$8,000,000 in the above described lawful money of account in substance to be drawn off your substance for failure to protect a citizen of Montana in this republic state." If your "bond" is insufficient, your property will be attached to balance the difference and shortcoming, and if this is still not sufficient to satisfy in full claim, your "body" will be attached for the difference to balance the account, etc." REP. FAGG said this goes on and there isn't anything on the books to allow the

secretary of the state to take care of these kinds of liens. There is protection in HB 635 for proper liens and this will be explained by Mike Cooney. He said the Bankers Association was concerned about the bill, but are okay with it at this time.

Proponents' Testimony:

Mike Cooney, Secretary of State, said the main purpose of HB 635 is to stop the abuse of the Uniform Commercial Code (UCC) is required by the system. It cleans up the statutes by removing language, and provides provisions established for the transition of moving the UCC lien filing system from the clerk and recorder's offices to the office of the secretary of state. He said liens like the above mentioned by **REP. FAGG** are usually filed when an individual is mad at the system or an official, who can file a UCC lien naming the individual as the debtor and listing a person's property as collateral for some fictional debt. He said usually the secretary of state's office is able to get out of these types of liens because they fail to have the debtor's signature or some other defect. He said HB 635 contains language that will protect legitimate liens from being removed from the system by giving the names of the secured parties. This bill will not keep the legitimate users from using the UCC filing system. **EXHIBIT 12**

Peter Funk, Assistant Attorney General, Department of Justice, said they strongly support giving the secretary of state the ability to reject these fraudulent liens, and will still protect the valid lien holders.

Roger Tippy, representing the Montana Independent Association, said they support HB 635.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. WAGNER asked Peter Funk if there were any legitimate charges from these people to file liens and go to court? **Mr. Funk** said there isn't any evaluation process that goes on prior to the filing of a complaint. He said people that file fraudulent liens have discovered they can create a lot of work and expenditure of resources on behalf of the government by filing these documents.

Closing by Sponsor:

REP. FAGG closed and asked the committee to give HB 635 a do pass recommendation.

EXECUTIVE ACTION ON HB 635

Motion: REP. COCCHIARELLA MOVED HB 635 DO PASS.

Discussion: None

Motion/Vote: REP. BARNETT called the question. Voice vote was taken. Motion carried unanimously.

Vote: HB 635 DO PASS. Motion carried 18 - 0.

EXECUTIVE ACTION ON HB 585

Motion: REP. COCCHIARELLA MOVED HB 585 DO PASS.

Discussion: REP. BARNETT said the subcommittee directed Todd Everts to draw up some amendments that would compromise both sides.

Todd Everts, EQC staff, said he drafted HB 585. He said there were 50 amendments, but the EQC and the secretary of state's office were able to resolve the issues and came to a compromise with everyone involved. The amendments strike the certification program; the permitting process; the civil penalties; the amendments to the sunrise laws for licensing procedures; inserts an educational program and proficiency listing for persons engaged in radon or related occupations; and makes disclosure to the department voluntary. EXHIBIT 19

REP. COCCHIARELLA moved to adopt amendments (see exhibit 19). Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. COCCHIARELLA MOVED HB 585 DO PASS AS AMENDED. The questions was called. Voice vote was taken. Motion carried unanimously.

Vote: HB 585 DO PASS AS AMENDED. Motion carried 18 - 0.

EXECUTIVE ACTION ON HB 548

Motion: REP. PAVLOVICH MOVED HB 548 DO PASS.

Discussion: REP. PAVLOVICH moved to adopt the amendments drafted by David Niss, Legislative Council. REP. PAVLOVICH said these amendments are proposed by the tobacco industry, and explained the amendment to the committee. REP. BRANDEWIE called the question. Voice vote was taken. Motion carried 16 - 2 with REPS. DOWELL AND MILLS voting no. EXHIBIT 13

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REP. LARSON moved to adopt amendments proposed by the Montana Retail Association. REP. LARSON explained his amendments will strike the fines currently proposed in the bill and insert lesser fees. REP. ELLIS called the question. Voice Vote was taken. Motion carried unanimously.

REP. SIMON moved to strike section 9. Roll call vote was taken. Motion failed 6 - 12. EXHIBIT 15

Motion/Vote: REP. PAVLOVICH MOVED HB 548 DO PASS AS AMENDED. Roll call vote was taken. Motion carried 10 - 8. EXHIBIT 16 & 30

Vote: HB 548 DO PASS AS AMENDED. Motion carried 10 - 8.

EXECUTIVE ACTION ON HB 596

Motion: REP. BRANDEWIE MOVED HB 596 DO PASS.

Discussion: REP. BRANDEWIE moved to adopt the amendment prepared by Roger Tippy. The question was called. Voice vote was taken. Motion carried 17 - 1 with REP. DAILY voting no. EXHIBIT 17 & 24

Motion/Vote: REP. BRANDEWIE MOVED HB 596 DO PASS AS AMENDED. REP. BARNETT called the question. Voice vote was taken. Motion carried 6 - 12 with REPS. DOWELL, DAILY, COCCHIARELLA, PAVLOVICH, TUSS, AND STELLA JEAN HANSEN voting no.

Vote: HB 596 DO PASS AS AMENDED. Motion carried 12 - 6.

EXECUTIVE ACTION ON HB 422

Motion: REP. LARSON MOVED TO RECONSIDER ACTION ON HB 422 AND TAKE FROM THE TABLE.

Roll call vote was taken. Motion carried 11 - 7. EXHIBIT 18

Discussion: REP. LARSON said HB 422 will establish standards for adopting rules for mobile home parks. He said HB 422 will require two things: 1) require rules to be written for a mobile home park; and 2) to permit the establishment of mobile home park associations. EXHIBIT 19

REP. LARSON moved to adopt the amendment. Roll call vote was taken. Motion carried 18 - 0. EXHIBIT 20

REP. BRANDEWIE said REP. LARSON'S amendments don't do exactly what needs to be done. He asked Paul Verdon if language could be drafted that would state "all rules and regulations will be in

written form and be made available to all of the tenants".

EXHIBIT 25

Motion/Vote: REP. LARSON MOVED HB 422 DO PASS AS AMENDED. Roll call vote was taken. Motion carried 14 - 4 with REPS. BARNETT, PAVLOVICH, BACHINI, AND VICE CHAIRMAN SONNY HANSON voting no.
EXHIBIT 21

Vote: SB 422 DO PASS AS AMENDED. Motion carried 14 - 4.

EXECUTIVE ACTION ON HB 155

Motion: REP. PAVLOVICH MOVED TO RECONSIDER ACTION ON HB 155 AND TAKE FROM THE TABLE.

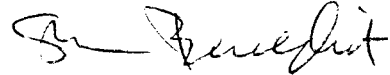
Discussion: REP. PAVLOVICH distributed amendments for the denturity bill. **EXHIBIT 22**

Motion/Vote: The question was called. Roll call vote was taken. Motion failed 7 - 11 to take from the table. **EXHIBIT 23**

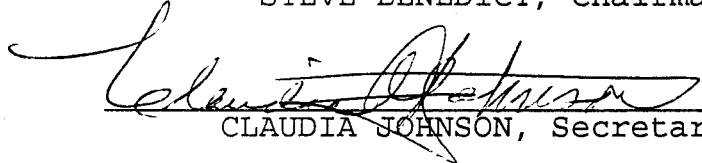
Vote: HB 155 BE TABLED. Motion failed 7 - 11.

ADJOURNMENT

Adjournment: 11:15 A.M.



STEVE BENEDICT, Chairman



CLAUDIA JOHNSON, Secretary

SB/cj

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL

DATE 2-18-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ALVIN ELLIS	✓		
REP. DICK KNOX	✓		
REP. NORM MILLS	✓		
REP. JOE BARNETT	✓		
REP. RAY BRANDEWIE	✓		
REP. JACK HERRON	✓		
REP. TIM DOWELL	✓		
REP. CARLEY TUSS	✓		
REP. STELLA JEAN HANSEN	✓		
REP. BOB PAVLOVICH	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRITZ DAILY	✓		
REP. BOB BACHINI	✓		
REP. DON LARSON	✓		
REP. BRUCE SIMON	✓		
REP. DOUG WAGNER	✓		
REP. SONNY HANSON, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT, CHAIRMAN	✓		

HR:1993

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HOUSE STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 422 (first reading copy -- white) do pass as amended.

Signed: _____
Steve Benedict, Chair

And, that such amendments read:

1. Title, lines 6 through 8.
Strike: lines 6 and 7 in their entirety through "CIRCUMSTANCES;"
on line 8
2. Title, lines 9 through 11.
Following: ";" on line 9
Strike: remainder of line 9 through ";" on line 11
3. Title, line 11.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "70-24-103"
Insert: ", 70-24-311, AND 70-24-431"
4. Page 4, lines 12 and 13.
Strike: subsection (a) in its entirety
Renumber: subsequent subsections
5. Page 4, line 15.
Strike: "a"
Insert: "A"
6. Page 4, line 18, through page 5, line 11.
Strike: ";" on line 18, page 4 through "court" on line 11, page 5
Insert: "(b) All rules must be written and must be given to each mobile home park resident who resides in a mobile home park and to all new residents of a mobile home park upon arrival."
Renumber: subsequent subsection

February 19, 1993

Page 2 of 3

7. Page 6, lines 15 and 16.

Strike: "-- harassment prohibited"

Following: "meetings." on line 16

Strike: "(1)"

8. Page 6, lines 19 and 20.

Strike: line 19 in its entirety through "." on line 20

9. Page 6, line 21.

Strike: "but"

Insert: "and"

10. Page 6, lines 22 and 23.

Strike: "not be members and may not"

11. Page 6, line 23 through page 9, line 23.

Following: "meetings" on line 23, page 6

Insert: "."

Strike: the remainder of section 3 and section 4 in its entirety

Insert: "Section 4. Section 70-24-311, MCA, is amended to read:

"70-24-311. Landlord authorized to adopt rules. (1) A landlord may adopt a rule concerning the tenant's use and occupancy of the premises. A rule is enforceable against the tenant only if:

(a) its purpose is to promote the convenience, safety, or welfare of the occupants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(b) it is reasonably related to the purpose for which it is adopted;

(c) it applies to all occupants in the premises in a fair manner;

(d) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;

(e) it is not for the purpose of evading the obligations of the landlord; and

(f) the tenant has notice of it at the time he enters into the rental agreement or when it is adopted.

(2) As provided in subsection (1) and in conformance with the provisions of this chapter, the landlord of a mobile home park shall adopt written rules concerning the tenants' use and occupancy of the premises.

~~(2)~~ (3) If a rule is adopted after a tenant enters into a rental agreement that works a substantial modification of his bargain, it is not valid until 7 days after notice to the tenant in the case of a week to week tenancy or 30 days

notice in the case of tenancies from month to month."

Section 5. Section 70-24-431, MCA, is amended to read:

"70-24-431. Retaliatory conduct by landlord prohibited. (1) Except as provided in this section, a landlord may not retaliate by increasing rent, decreasing services, or by bringing or threatening to bring an action for possession after the tenant:

(a) has complained of a violation applicable to the premises materially affecting health and safety to a governmental agency charged with responsibility for enforcement of a building or housing code;

(b) has complained to the landlord in writing of a violation under 70-24-303; or

(c) has organized or become a member of a tenant's union, mobile home park residents association, or similar organization.

(2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in 70-24-411 and has a defense in any retaliatory action against him for possession.

(3) In an action by or against the tenant, evidence of a complaint within 6 months before the alleged act of retaliation creates a rebuttable presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. For purposes of this section, "rebuttable presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(4) Notwithstanding subsections (1), (2), and (3) of this section, a landlord may bring an action for possession if:

(a) the violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant, a member of his family, or other persons on the premises with his consent;

(b) the tenant is in default in rent; or

(c) compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit.

(5) The maintenance of an action under subsection (4) of this section does not release the landlord from liability under 70-24-405(2)."

HOUSE STANDING COMMITTEE REPORT

February 18, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 465 (first reading copy -- white) do pass.

Signed: Steve Benedict
Steve Benedict, Chair

Committee Vote:
Yes ____, No ____.

401412SC.Hsg

HOUSE STANDING COMMITTEE REPORT

February 19, 1993

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 548 (first reading copy -- white) do pass as amended.

Signed: Steve Benedict
Steve Benedict, Chair

And, that such amendments read:

1. Title, lines 10 and 11.

Strike: line 10 in its entirety and "property;" on line 11

2. Page 1, line 16.

Page 2, line 5.

Strike: "11"

Insert: "10"

3. Page 3, line 13.

Strike: "It is illegal to sell or distribute"

Insert: "Montana law prohibits the sale of"

4. Page 4, line 10.

Strike: "and"

Insert: "(3) places where alcoholic beverages, as defined in 16-1-106, are offered for sale; and"

Renumber: subsequent subsection

5. Page 5, line 4.

Strike: "\$250"

Insert: "\$200"

6. Page 5, line 5.

Strike: "\$500"

Insert: "\$300"

7. Page 5, line 3.

Strike: "\$1,000"

Insert: "\$500"

8. Page 5, line 10.

Strike: "(a)"

Committee Vote:

Yes 12 No 2

410003SC.000

9. Page 5, line 12.

Strike: "\$300"

Insert: "\$100"

10. Page 5, line 14.

Strike: "\$500"

Insert: "\$200"

11. Page 5, line 15.

Strike: "\$1,000"

Insert: "\$500"

12. Page 5, lines 16 through 20.

Strike: subsection (b) in its entirety

13. Page 6, line 2.

Strike: "(a)"

14. Page 6, line 5, through page 8, line 2.

Strike: line 5, page 6 through line 2, page 8 in their entirety

Renumber: subsequent sections

15. Page 3, line 5.

Strike: the first "as"

Insert: "no more"

Strike: the second "as"

Insert: "than"

16. Page 3, lines 5 and 6.

Strike: "2"

Insert: "3"

HOUSE STANDING COMMITTEE REPORT

February 19, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 596 (first reading copy -- white) do pass as amended .

Signed: Steve Benedict
Steve Benedict, Chair

And, that such amendments read:

1. Page 1.

Following: line 9

Insert: "

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 7] authorizes the department of commerce to adopt rules regulating the conduct of business in Montana by foreign trust companies. It is intended that the rules allow a foreign trust company to establish branches or offices of any sort in Montana or to solicit business in Montana only if reciprocating states within the ninth federal reserve district generally permit such solicitation."

2. Page 4, line 24 through page 5, line 6.

Following: "may" on line 24, page 4

Strike: remainder of line 24 through "office" on page 5, line 6

Insert: "conduct business in Montana only in accordance with rules promulgated by the department of commerce"

HOUSE STANDING COMMITTEE REPORT

February 18, 1993

Page 1 of 6

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 585 (first reading copy -- white) do pass as amended .

Signed: _____
Steve Benedict, Chair

And, that such amendments read:

1. Title, lines 4 and 5.

Strike: "A CERTIFICATION"

Insert: "AN EDUCATIONAL"

2. Title, lines 6 and 7.

Strike: "PROVIDING" on line 6 through "SERVICES;" on line 7

3. Title, line 10.

Strike: "CERTIFICATION"

Insert: "EDUCATIONAL PROGRAM"

Strike: "AND A PERMITTING PROCESS"

4. Title, line 11.

Strike: "REQUIRING A CERTIFIED PERSON TO DISCLOSE"

Insert: "PROVIDING FOR VOLUNTARY DISCLOSURE OF"

5. Title, lines 13 and 14.

Strike: "AUTHORIZING" on line 13 through "OCCUPATION;" on line 14.

6. Title, lines 20 through 24.

Strike: "PROVIDING" on line 20 through "PROGENY;" on line 24

7. Title, line 25.

Strike: "SECTIONS 2-8-202 AND"

Insert: "SECTION"

8. Page 3, line 8.

Strike: "ensure"

Insert: "educate"

Committee Vote:

Yes ____, No ____.

401414SC.Hss

9. Page 3, line 9.

Strike: "that"

Following: "providers"

Strike: "are qualified"

Following: "perform"

Insert: "radon"

10. Page 3, line 10.

Strike: "rendered"

Insert: "compatible with the most current technology"

11. Page 3, line 15.

Strike: "certifying"

Insert: "educating"

12. Page 3, lines 16 and 17.

Strike: "establishing" on line 16 through "services," on line 17

13. Page 3, line 20.

Strike: "a"

Insert: "an education"

Strike: "of certification"

14. Page 3, line 22 through page 4, line 2.

Strike: "in" on page 3, line 22 through "health" on page 4, line 2.

15. Page 4, lines 7 through 11.

Strike: "[This" on line 7 through "health." on line 11

Insert: "The department shall publish a listing of those persons that have successfully completed radon training and testing requirements."

16. Page 4, lines 18 through 20.

Strike: subsection (1) in its entirety

Re-number: subsequent subsections

17. Page 5, lines 18 through 20.

Strike: subsection (9) in its entirety

18. Page 5, lines 22 and 23.

Strike: "certification" on line 22 through "permits"

Insert: "criteria for training and testing -- proficiency listing"

Following: "."

Strike: "(1)"

19. Page 5, line 24.

Strike: "certification of"

Insert: "educating"

Following: "persons"

Insert: "engaged"

20. Page 5, line 25 through page 6, line 1.

Strike: "and" on page 5, line 25 through "occupations" on page 6,
line 1

21. Page 6, line 4.

Strike: "(a)"

Insert: "(1)"

22. Page 6, line 6.

Strike: "(b) qualifications" through "requirements"

Insert: "(2) criteria for publishing a listing of persons engaged
in a radon-related occupation who have successfully
completed training and testing requirements established by
the department"

23. Page 6, line 7.

Strike: "(c)"

Insert: "(3)"

24. Page 6, lines 8 and 9.

Strike: "(d)"

Insert: "(4)"

Strike: "renewal" on line 8 through "including" on line 9

Following: "courses" on line 9

Insert: "to maintain proficiency listing eligibility"

25. Page 6, lines 10 through 23.

Strike: "(e)" on line 10 through "action;" on line 23

26. Page 6, line 24.

Strike: "(k)"

Insert: "(5)"

27. Page 7, line 1.

Strike: "(i)"

Insert: "(a)"

Following: "courses"

Insert: "and applicable tests"

28. Page 7, lines 2 through 4.

Strike: in their entirety

Renumber: subsequent subsection

29. Page 7, line 6.

Strike: "(v)"

Insert: "(b)"

30. Page 7, lines 7 through 15.

Strike: subsection (2) in its entirety

31. Page 7, line 16.

Strike: "Certification"

Insert: "Radon education and proficiency listing"

Strike: "---"

32. Page 7, line 17.

Strike: "restrictions"

Strike: "To qualify for certification"

Insert: "(1) In order to be publicly listed as proficient by the
department in a radon-related occupation"

33. Page 7, line 19.

Strike: "(a)"

Insert: "(1)"

34. Page 7, line 21.

Strike: "(b)"

Insert: "(2)"

35. Page 7, line 22 through page 8, line 17.

Strike: subsections (2) and (3) in their entirety

36. Page 8, line 18.

Strike: "Disclosure"

Insert: "Voluntary disclosure"

37. Page 8, lines 20 through 22.

Strike: "certified" on line 20 through "must" on line 21

Insert: "may"

Strike: "and" on line 21 through "service" on line 22

Following: "report" on line 22

Strike: "must"

Insert: "may"

38. Page 9, lines 3 through 17.

Strike: Section 6 in its entirety

Renumber: subsequent sections

39. Page 12, line 23.
Strike: "13"
Insert: "12"

40. Page 13, line 13.
Strike: "8" and "10"
Insert: "7" and "9"

41. Page 13, line 21.
Strike: "certification and permit"
Insert: "training and testing"

42. Page 13, line 24.
Strike: "9" and "10"
Insert: "8" and "9"

43. Page 13, line 25.
Strike: subsection (c) in its entirety

44. Page 14, line 10 through page 15, line 19.
Strike: Section 14 in its entirety
ReNUMBER: subsequent sections

45. Page 16, line 19 through page 17, line 25.
Strike: Section 16 in its entirety
ReNUMBER: subsequent sections

46. Page 18, lines 5 through 9.
Strike: Section 18 in its entirety
ReNUMBER: subsequent sections

47. Page 4, lines 15 and 17.
Page 6, line 25.
Page 9, line 4.
Page 14, lines 4 and 9.
Page 18, lines 2 and 4.
Strike: "14"
Insert: "12"

48. Page 12, line 2.
Page 13, line 10.
Page 16, line 5.
Strike: "9"
Insert: "3"

49. Page 12, line 13.
Page 16, line 5.
Strike: "10"

Insert: "9"

50. Page 12, lines 7 and 11.

Page 13, line 15.

Page 16, line 7.

Strike: "8"

Insert: "7"

HOUSE STANDING COMMITTEE REPORT

February 18, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 635 (first reading copy -- white) do pass .

Signed: _____
Steve Benedict, Chair

Committee Vote:
Yes ____, No ____.

4014138C.Has

TOBACCO USE BEGINS EARLY

Average Age 13

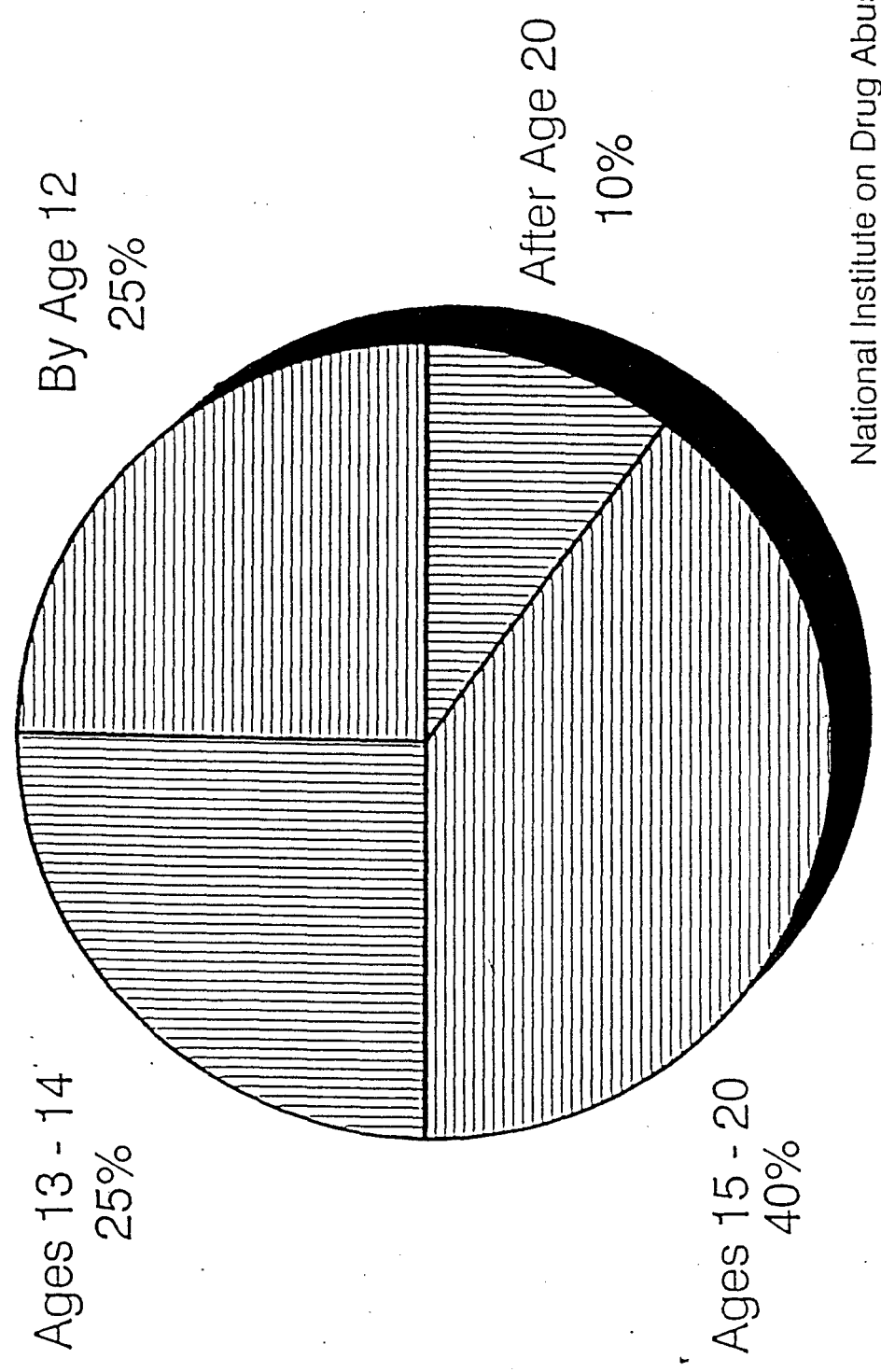


EXHIBIT 1
DATE 2-18-93
HB 548

YOUTH ACCESS TO TOBACCO

STATE LAW PROVISIONS*

*See Legend At End Of Matrix

S T A T E	A G E	S A L E	P O S S E S S I O N	P U R C H A S E	L I C E N S E S	S I G N S	V M E A N C H I N G S	G P R E N D A L U L T I E S	F I N E S	J A I L	R E V O C A T I O N	E N F O R C E R	P R E E M P T I O N
AK	19	CV	Y		Y	Y	B		Y		Y		
AL	19	CR			Y				Y	Y	Y		
AR	18	CR			Y	Y	B	Y	Y		Y		
AZ	18	CR	Y	Y	Y				Y				
CA	18	**				Y			Y				Y
CO	18	CR		Y		Y	B		Y				
CT	18	CV		Y	Y	Y	B	Y	Y				
DC	18	CR			Y	Y	P	Y	Y	Y	Y		
DE	18	CR	Y		Y				Y			Y	
FL	18	CR			Y	Y			Y	Y		Y	
GA	17	CR			Y	Y	S		Y		Y		
HI	18	CV	Y	Y		Y	P	Y	Y			Y	
IA	18	CR	Y	Y	Y		L		Y		Y	Y	Y
ID	18	CR	Y	Y	Y		S	Y	Y	Y			
IL	18	CR		Y		Y		Y	Y				
IN	18	CV	Y	Y		Y	P		Y				
KS	18	CR		Y	Y				Y	Y	Y		
KY	18	CR				Y		Y	Y				
LA	18	CR		Y		Y			Y				
MA	18	CR			Y	Y		Y	Y	Y			
MD	18	CV							Y	Y			

STATE	AGE	SALE	POSSESSION	PURCHASE	LICENSE	SIGNS	VEHICLES	GRANDCHILDREN	FINES	JAIL	REVOCATION	ENFORCER	PREEMPTION
ME	18	CV		Y	Y	Y	S		Y				
MI	18	CR	Y	Y		Y			Y			Y	
MN	18	CR		Y	Y		B		Y	Y			
MO	18	CR				Y		Y	Y				
MS	18	CR							Y	Y			
MT													
NC	18	CR							Y	Y			
ND	18	CR	Y		Y		S		Y	Y			
NE	18	CR	Y		Y		P		Y				
NH	18	CV	Y	Y	Y	Y		Y	Y				
NJ	18	CR			Y	Y			Y				
NM	18	CR		Y	Y	Y	P						Y
NV	18	CV			Y				Y		Y		
NY	18	CV			Y	Y	P	Y	Y		Y	Y	
OH	18	CR					B	Y	Y				
OK	18	CR	Y		Y				Y	Y			
OR	18	CV	Y	Y		Y	P		Y				
PA	18	CR		Y	Y			Y	Y	Y			
RI	18	CR	Y	Y	Y	Y		Y	Y		Y		
SC	18	CR							Y	Y			
SD	18	CR	Y	Y					Y				
TN	18	CR	Y		Y	Y		Y	Y	Y	Y		
TX	18	CR			Y	Y			Y				
UT	19	CR	Y	Y	Y		P	Y	Y	Y			
VA	18	CV	Y	Y		Y			Y				

EXHIBIT 1
 DATE 2-18-93
HB 548

S T A T E	A G E	S A L E	P O S S E S S I O N	P U R C H A S E	L I C E N S E	S I G N S	V M E A N D H I N G S	G R A D U A T I E S	F I N E S	J A I L	R E V O C A T I O N	E N F O R C E R	P R E E M P T I O N
VT	18	CV		Y	Y	Y	P	Y	Y		Y	Y	
WA	18	CR			Y				Y	Y	Y		
WI	18	CV	Y		Y	Y	B	Y	Y		Y	Y	Y
WV	18	CR	Y					Y	Y				
WY	18	CR	Y	Y		Y	P		Y				Y

LEGEND

STATE: The name of the State in abbreviation.

AGE: The age at which a person may purchase tobacco products.

SALE: Type of sale law. CR indicates the law is criminal and CV indicates the law is civil. ** indicates that the law may be enforced as a civil law or a criminal law.

POSSESSION: Possession by a minor. Y indicates that it is illegal for a minor to possess tobacco products.

PURCHASE: Purchase by a minor. Y indicates that it is illegal for a minor to purchase tobacco products.

LICENSE: Licenses for vendors. Y indicates that vendors must have licenses to sell tobacco products.

SIGNS: Signs at the point of sale. Y indicates that a sign at the point of sale must be present.

VENDING MACHINES: Vending machine restrictions. S indicates that vending machines (vm) have to be supervised by an employee. P indicates that vm are restricted in placement (to areas where minors are not present). B indicates that vm have to be supervised and/or restricted in placement. L indicates that vm must have locking devices.

GRADUATED PENALTIES: Y indicates that there is a set graduated scale of penalties for each offense.

FINES: Y indicates that fines may be a penalty for noncompliance.

JAIL: Y indicates that jail time may be penalty for noncompliance.

REVOCATION: Revocation of license. Y indicates that the revocation of a vendor's license may be a penalty for noncompliance.

ENFORCER: Enforcer of law. Y indicates that the enforcer is stated in the law.

PREEMPTION: Preemption clause. Y indicates that there is a preemption clause not allowing localities to create stricter laws regarding youth access.

EXHIBIT 1
DATE 2-18-93
HB 548

EXHIBIT 2 P. 1/1
DATE 2-18-93
HB 548



BARBARA ANDREOZZI
Chairman of the Board
CARLEY ROBERTSON, MD
President
ART DICKHOFF
Vice Chairman of the Board
BENJAMIN MARCHELLO, MD
Vice President
VIRGINIA WIECK
Secretary
RON NECHT
Treasurer
S. STAN WIECZOREK
Executive Vice President

February 17, 1993

To Representative Bill Strizich
Minority Whip
State Legislature
Capitol Building
Helena, Montana 59620

ONE PAGE

FAX NUMBER 1-444-4809

KNOWING AS WE DO THE NEED TO RESTRICT TOBACCO SALES TO MINORS, AND THEREBY ADD MONTANA'S STRONG VOICE TO THE OTHER 49 STATES' EFFORTS TO REDUCE THE RISK OF CANCER FOR OUR CHILDREN, THE AMERICAN CANCER SOCIETY, MONTANA DIVISION, JOINS WITH OTHER MONTANA MAJOR HEALTH ORGANIZATIONS IN STRONG SUPPORT OF HOUSE BILL 548, RESTRICTING TOBACCO SALES TO MINORS IN MONTANA.

OUR AMERICAN CANCER SOCIETY HAS LONG LED THE FIGHT TO EDUCATE OUR YOUTH TO STOP TOBACCO USE IN EVERY PUBLIC FORUM AVAILABLE TO US, AND KNOW THAT THIS BILL WILL PROVIDE STATE-WIDE PROTECTION TO MINORS; WILL SUPPORT THE FEDERAL STATUTE ON THIS MATTER, AND BRING LEGAL CONDEMNATION TO THOSE WHO WOULD ENDANGER OUR YOUTH FOR PROFIT.

CANCER KILLS MORE PEOPLE IN MONTANA THAN ANY OTHER DISEASE. SMOKING CAUSES CANCER. STATISTICS BROUGHT BEFORE YOU TODAY ARE IN THEMSELVES COMPELLING EVIDENCE THAT THIS LAW IS NEEDED. IT IS TIMELY, WILL SUPPORT NATIONAL LAW, AND PROTECT OUR DRUG EDUCATION FEDERAL GRANTS.

THE FORCES ARRAYED AGAINST THIS BILL REPRESENT VESTED TOBACCO INTERESTS, WHO, IRONICALLY, SHOULD SUPPORT THIS BILL, BASED ON THEIR CORPORATE STATEMENTS TO DO SO. INSTEAD, THESE INTERESTS, WHILE PROVIDING LIP SERVICE TO PROTECTING CHILDREN FROM TOBACCO, AID AND ABET ADVERTIZING AND SALES OF THE WIDEST VARIETY OF TOBACCO PRODUCTS. CAMPAIGNS TO SELL TO THE YOUNG START IN THE LOWER SCHOOL GRADES, AND CONTINUE UNABATED. PLEASE ACT TO PROTECT OUR YOUTH FROM THE HARMFUL EFFECTS OF TOBACCO PRODUCTS. MONTANA PARENTS THAT CARE WILL THANK YOU.


ROBERT K. RIPLEY

VOLUNTEER CHAIRMAN OF THE PUBLIC ISSUES COMMITTEE
OF THE MONTANA DIVISION OF THE AMERICAN CANCER SOCIETY

EXHIBIT 3
DATE 2-18-93
HB 548

SUMMARY

ADAMHA State Requirements

Section 1926 of the ADAMHA regulations, "State Law Regarding Sale of Tobacco Products to Individuals Under 18," authorizes the Secretary of Health and Human Services, acting through the Center for Substance Abuse Treatment, to make grants to states for fiscal year 1994 and subsequent fiscal years that meet the following requirements:

Relevant Law

- o The state must have in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18. (There is a "delayed applicability" provision for state legislatures that do not convene regular sessions in fiscal years 1993 or 1994.)

Enforcement

- o The state must enforce the law in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18.

Activities/Reports Regarding Enforcement

- o The state must annually conduct random, unannounced inspections to ensure compliance with the law.
- o The state must annually submit to the Secretary a report describing (i) the activities carried out by the state to enforce the law during the fiscal year preceding the fiscal year for which the state is seeking the grant; (ii) the extent of success the state has achieved in reducing the availability of tobacco products to individuals under the age of 18; (iii) the strategies to be utilized by the state for enforcing the law during the fiscal year for which the grant is sought.

Noncompliance of State

- o If, after notice to the state and an opportunity for a hearing, the Secretary determines that the state is not complying with the "Activities and Reports Regarding Enforcement" requirements, the Secretary shall reduce the amount of the allotment for the state for the fiscal year involved by an amount equal to: 10 percent for fiscal year 1994; 20 percent for fiscal year 1995; 30 percent for fiscal year 1996; and 40 percent for fiscal year 1997, or any subsequent fiscal year.

42 USC 300x-26. "SEC. 1926. STATE LAW REGARDING SALE OF TOBACCO PRODUCTS
TO INDIVIDUALS UNDER AGE OF 18.

"(a) RELEVANT LAW.—

"(1) IN GENERAL.—Subject to paragraph (2), for fiscal year 1994 and subsequent fiscal years, the Secretary may make a grant under section 1921 only if the State involved has in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18.

"(2) DELAYED APPLICABILITY FOR CERTAIN STATES.—In the case of a State whose legislature does not convene a regular session in fiscal year 1993, and in the case of a State whose legislature does not convene a regular session in fiscal year 1994, the requirement described in paragraph (1) as a condition of a receipt of a grant under section 1921 shall apply only for fiscal year 1996 and subsequent fiscal years.

"(b) ENFORCEMENT.—

"(1) IN GENERAL.—For the first applicable fiscal year and for subsequent fiscal years, a funding agreement for a grant under section 1921 is that the State involved will enforce the law described in subsection (a) in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18.

"(2) ACTIVITIES AND REPORTS REGARDING ENFORCEMENT.—For the first applicable fiscal year and for subsequent fiscal years, a funding agreement for a grant under section 1921 is that the State involved will—

"(A) annually conduct random, unannounced inspections to ensure compliance with the law described in subsection (a); and

"(B) annually submit to the Secretary a report describing—

"(i) the activities carried out by the State to enforce such law during the fiscal year preceding the fiscal year for which the State is seeking the grant;

"(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18; and

"(iii) the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

"(c) NONCOMPLIANCE OF STATE.—Before making a grant under section 1921 to a State for the first applicable fiscal year or any subsequent fiscal year, the Secretary shall make a determination of whether the State has maintained compliance with subsections (a) and (b). If, after notice to the State and an opportunity for a hearing, the Secretary determines that the State is not in compliance with such subsections, the Secretary shall reduce the amount of the allotment under such section for the State for the fiscal year involved by an amount equal to—

"(1) in the case of the first applicable fiscal year, 10 percent of the amount determined under section 1933 for the State for the fiscal year;

"(2) in the case of the first fiscal year following such applicable fiscal year, 20 percent of the amount determined under section 1933 for the State for the fiscal year;

"(3) in the case of the second such fiscal year, 30 percent of the amount determined under section 1933 for the State for the fiscal year; and

"(4) in the case of the third such fiscal year or any subsequent fiscal year, 40 percent of the amount determined under section 1933 for the State for the fiscal year.

"(d) DEFINITION.—For purposes of this section, the term 'first applicable fiscal year' means—

"(1) fiscal year 1995, in the case of any State described in subsection (a)(2); and

"(2) fiscal year 1994, in the case of any other State.

EXHIBIT 3
2-18-93
HB 548

Testimony on HB 548
For House Business and Economic Development Committee
by Bob Robinson, Director

Mr Chairperson and Members of the Committee: For the record, I am Bob Robinson, Director of the Montana Department of Health and Environmental Sciences. The Department wishes to offer its support of HB 548. The bill represents minimal public health standards to begin to enforce a law, which would make Montana the 50th state to restrict tobacco access to youth.

Tobacco use remains the single, most important preventable cause of death and disability. Smoking is directly responsible for about 434,000 deaths in the United States and 1,500 deaths in Montana annually; thus, we can fairly blame tobacco for more than one in every six deaths. In a time that this country is in peacetime, it is astonishing to realize that the number of Americans who die each year from tobacco annually exceeds the number of Americans who died in all of World War II, and this toll, unfortunately, is repeated year after year.

Though cigarette smoking prevalence is similar to the rest of the nation, smokeless tobacco consumption among male teens is one of the highest in the nation. Unfortunately, teens continue to start smoking in their youth and become addicted for life. In fact, 90% of adult smokers began their addiction as children or adolescents. The younger a person is when they start to smoke, the more likely they are to become a long-term smoker and to develop smoking related diseases. Preventing youth from taking up the habit is far more cost effective than treating the addiction later in life, and far less expensive than treating the resulting diseases.

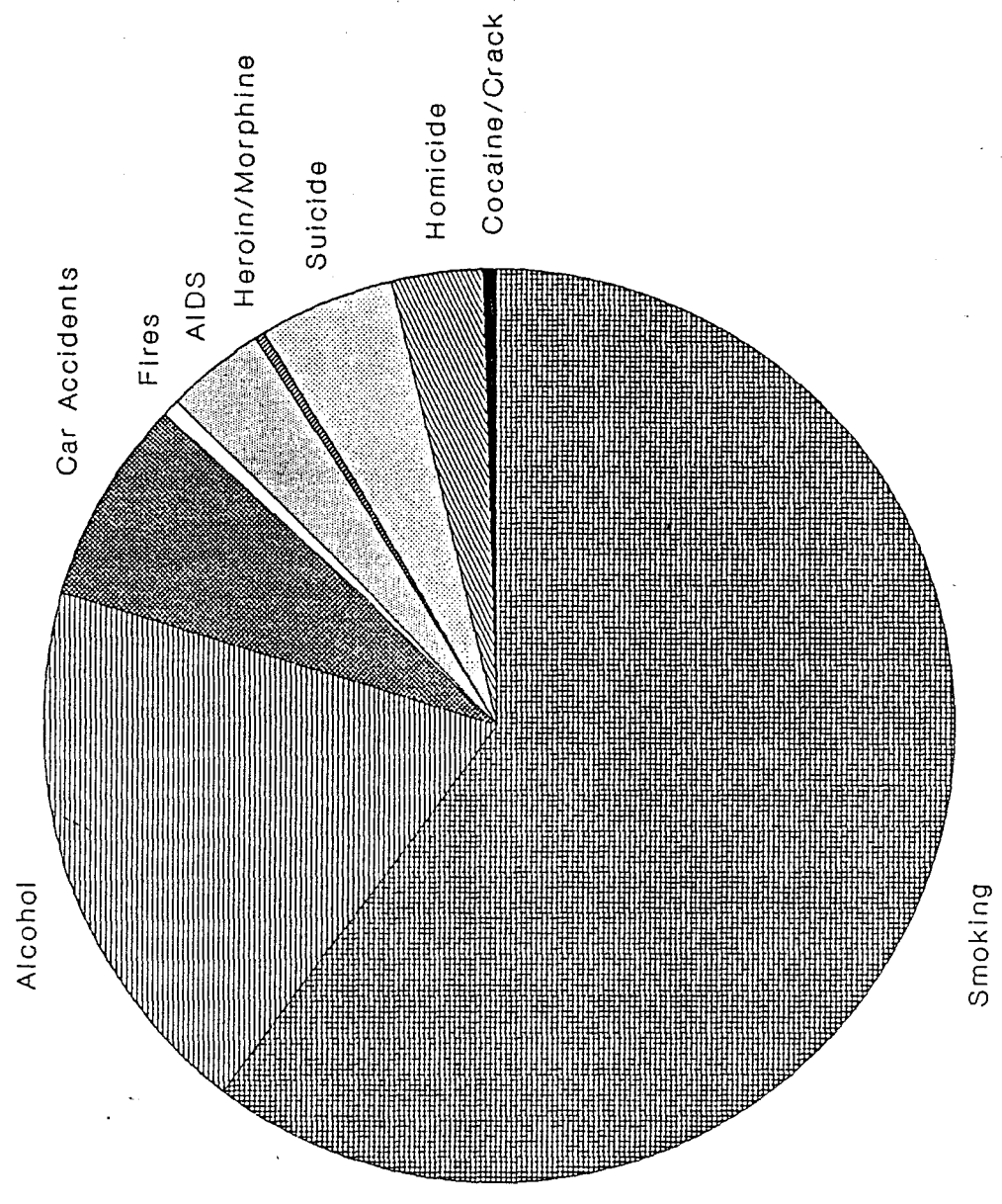
We observe a daily dose of new press items depicting the impact of tobacco and its relationship to a variety of health problems. yet, we allow a constant barrage of tobacco advertizing that portrays tobacco as safe, sexy, and sophisticated -- themes that appeal strongly to impressionable teens.

National studies are clear and simple. Youth can easily buy tobacco products anytime they want and this bill would hopefully restrict those sales. The effective laws are those supported at the local level and address licensing of tobacco vendors, penalties for retail violations, use of "stings" to identify illegal sales, posting of signs at points of sale, and restrictions or bans on vending machines. Above all, the communities have found that leadership by government officials accompanied by local support and commitment are vital.

Our young people deserve the best in a comprehensive bill. Their lives and future depend on it. Please vote in favor of HB548!

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Smoking Kills More Americans Annually Than All of These COMBINED



APPROXIMATE NUMBER OF DEATHS:	
Smoking	390,000 ¹
Alcohol (including drunk driving)	125,000 ²
Car Accidents (including drunk driving)	47,000 ³
Fires	4,000 ⁴
AIDS	23,000 ⁵
Heroin/Morphine	2,400 ⁶
Suicide	31,000 ⁷
Homicide	21,000 ⁸
Cocaine/Crack	3,300 ⁹

¹ 1989 Surgeon General's Report, 1985 data
² Surgeon General's Office, 1985 data
³ National Safety Council, 1989 data
⁴ Centers for Disease Control, 1989 data
⁵ National Center for Health Statistics, 1987 data

Tetstimony for: Youth Access To Tobacco Products Control Act

I. Statistics Regarding the Use of Tobacco Products By Youth

- ▶ Tobacco use is the single most important preventable cause of death in the United States today.
- ▶ At least 50% of all current smokers began by age 14.
- ▶ By the end of adolescence, many tobacco users are already addicted to nicotine.

II. Montana Statistics Regarding the Use of Tobacco Products by Youth

- ▶ In Montana, for all youth, the median age of first use of cigarettes is age 12.
- ▶ In Montana, approximately 22% of all students, through the 12th grade report smoking regularly.
- ▶ In Montana, 33% of all male students report using smokeless tobacco within any given 30 day period. 7.6% for females.

III. Effects of Tobacco Control Legislation

- ▶ Montana is currently the only state in the U.S. which does not have a tobacco control law restricting sale of tobacco products to youth.
- ▶ The recent passage of the Synar Amendment, part of the Alcohol, Drug Abuse and Mental Health Reorganization Act which was passed on June 9, 1992, will effect the amount of substance abuse block grant funds which are authorized for the state of Montana in 1993. If Montana does not put into effect a youth access to tobacco control act with this meeting of the legislature, the state stands to begin losing hundreds of thousands of dollars in block grant funding. Additionally, the state of Montana must enforce the new law to remain eligible.
- ▶ In locations where tobacco sales to underaged person have been curtailed, the prevalence of smoking by teenagers has decreased, particularly among the youngest age groups.

IV. Statistics Involving the Age of Initiation

- ▶ Rates of tobacco-related diseases are higher for persons who initiate smoking at younger ages than for those beginning at older ages.
- ▶ Despite recent declines in the rates of smoking in the United States, use of tobacco products by youth has remained stable since 1981.

V. Access To Tobacco Products by Youth

- ▶ Over half of all youths aged 12-17 that smoke, purchase the cigarettes themselves. This figure is higher among 16 - 17 year olds (approximately 70%).
- ▶ 15% of youths age 12-17 who smoke, often purchase their cigarettes from vending machines, 20% among the youngest age groups.
- ▶ Small stores and convenience/gasoline stations are the major source of cigarettes for teenage buyers.

VI. Current Excise Tax Structure

- ▶ Cigarettes 19.26 cents per pack at wholesale
- ▶ Smokeless 13.38% of wholesale price

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MONTANA'S 1991 SCHOOL "TOBACCO REFERENDUM"

Montana's 1991 school "tobacco referendum" authorized by the state legislature and approved by 60% of the 50,000 students voting in grades 7-12, represents an innovative attempt to include youth in decisions regarding tobacco and health and to decisively demonstrate peer disapproval of tobacco use. The referendum asked students whether tobacco sellers should voluntarily refuse to sell cigarettes and tobacco to persons under age 18.

REFERENDUM RESULTS:

YES -- I DO favor requesting that stores REFUSE to sell cigarettes and tobacco to persons under 18 years of age.

NO --- I DO NOT favor requesting that stores REFUSE to sell cigarettes and tobacco to persons under 18 years of age.

	MALES	FEMALES	TOTAL	
YES	14,426	15,818	30,244	(59%)
NO	11,800	9,189	20,989	(41%)

The SYNAR AMMENDMENT
Alcohol, Drug Abuse & Mental Health Administration
Reorganization Act

The ADAMHA Reorganization Act (S. 1306), which passed in 1992, contains legislation which provides certain tobacco control measures through an ammendment entitled the **Synar Ammendment**.

The Synar Ammendment provides that as a condition of receiving certain block grant funds, states must enact and enforce a law prohibiting the sale or distribution of tobacco products to individuals under 18 years of age. Currently, Montana is the only remaining state in the nation which does not have a youth access to tobacco products control law. The Synar ammendment is clear in its language in that the state must have a minimum age law, and the state must properly enforce this law.

The standard which has been put into place is that the state must first have a minimum age law and second enforce the law in a manner that can be reasonably expected to reduce the extent to which tobacco products are available to individuals under the age of 18. If a state fails to persuade the U.S. Secretary of Health & Human Services in its annual reports that it has satisfied this standard, it will be subject to the following:

- ▶ a 10% decrease in the amount of block grant funds received in the 1st year of non-compliance
- ▶ a 20% decrease in the amount of block grant funds received in the 2nd year of non-compliance
- ▶ a 30% decrease in the amount of block grant funds received in the 3rd year of non-compliance
- ▶ a 40% decrease in the amount of block grant funds received in the 4th and all subsequent years of non-compliance

Specifically, the Synar Ammendment provides that, to demonstrate compliance, every state ANNUALLY must:

- 1) Conduct random, unannounced inspections of locations where tobacco products are sold; and
- 2) Submit to the Secretary of Health & Human Services a report describing -
 - a. the activities carried out by the state to enforce the law during the preceding year.
 - b. the extent of success the state has achieved in reducing the availability of tobacco products to those younger than 18; and

- c. the strategies to be utilized by the state for enforcing the law during the upcoming year.

If, after reviewing a state's annual report and after the state has been given notice and opportunity for a hearing, the Secretary determines that the state has failed to comply with these requirements, the Secretary MUST reduce the state's ADAMHA block grant for that year by the applicable percentage noted above.

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RESPIRATORY HEALTH EFFECTS OF PASSIVE SMOKING:
Lung Cancer & Other Disorders

ADULTS & CHILDREN

Summary & Conclusions From United States Environmental Protection Agency
Document #EPA/600/6-90/006F, Formally Released January 7, 1993.

A D U L T S - - -

- ETS is a human lung carcinogen, responsible for approximately 3,000 lung cancer deaths annually in U.S. NONSMOKERS.

C H I L D R E N - - -

- ETS exposure is causally associated with an increased risk of lower respiratory tract infections such as bronchitis and pneumonia. This report estimates that 150,000 to 300,000 cases annually in infants and young children up to 18 months of age are attributable to ETS.
- ETS exposure is causally associated with increased prevalence of fluid in the middle ear, symptoms of upper respiratory tract irritation, and a small but significant reduction in lung function.
- ETS exposure is causally associated with additional episodes and increased severity of symptoms in children with asthma. This report estimates that 200,000 to 1,000,000 asthmatic children have their condition worsened by exposure to ETS.
- ETS exposure is a risk factor for new cases of asthma in children who have not previously displayed symptoms.

ANNUAL TOBACCO-RELATED DEATHS IN MONTANA

<u>CAUSE OF DEATH</u>	<u>TOTAL DEATHS</u>	<u>% TOBACCO-RELATED</u>	<u>TOTAL TOBACCO DEATHS</u>
Cancer	1675	30%	503
Lung Cancer	482	83%	(400)
Other Cancers	1193		(103)
Heart Disease	1944	20%	389
Respiratory Disease	771	85%	655
Fires	19	33%	6
All Other Causes	<u>2504</u>	<u>N/A</u>	<u>0</u>
TOTAL	6995	22%	1,553

ECONOMIC COSTS OF TOBACCO USE IN MONTANA

Montana accounts for approximately .36% of the nations 434,000 tobacco-related deaths annually, including approximately 1419 deaths to cigarette smokers and 134 deaths to non-smokers from exposure to second hand smoke.

Cigarette smoking costs the American economy over \$65 billion annually in health care and lost job productivity due to smoking related diseases.

Montana's share of the economic costs (.39%) is \$254 million per year, at an average cost to the state's economy, businesses, taxpayers and insurance policy holders of \$3.63 for each of the 70 million packs of cigarettes sold in Montana (1991).

In 1991, approximately 21% of Montana citizens, or 170,000 smokers paid in excess of \$120 million per year for cigarettes. Montanans pay in excess of \$15 million per year for chewing tobacco.

Montana's current tobacco tax rates provide for nearly \$13 million per year in tax revenues, only 1/20th of the costs associated with cigarette smoking in the state.

1. Montana specific data compiled from 1991 Vital Statistics Tables and the 1991 Behavioral Risk Factor Survey, Montana Department of Health & Environmental Sciences.
2. United States specific data provided by the U.S. Department of Health & Human Services (1985). USDHHS provided economic data and the % denominators used to calculate smoking related deaths as a percentage of overall deaths.

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**Smoking Prevalence in Montana By Year - Adults Aged 18 & Over
1984 - 1991**

The following data have been gathered through the use of the Behavioral Risk Factor Surveillance System (BRFSS). The BRFSS is a monthly, randomized telephone survey of 99 Montana adults operated by the Department of Health & Environmental Sciences in cooperation with the Centers for Disease Control, Atlanta, Georgia. Yearly survey results are tabulated from a total of 1188 responses. BRFSS data have been gathered since 1984 regarding the prevalence of cigarette smoking in Montana.

<u>YEAR</u>	<u>% MALE SMOKERS</u>	<u>% FEMALE SMOKERS</u>	<u>% OF TOTAL POPULATION</u>
1984	29.5%	28.2%	28.9%
1985	24.3%	24.8%	24.6%
1986	23.4%	22.6%	23.0%
1987	21.3%	23.2%	22.3%
1988	20.7%	18.7%	19.7%
1989	19.7%	19.2%	19.5%
1990	17.3%	21.4%	19.4%
1991	20.9%	21.0%	21.0%
1992	* Data have not been tabulated at this time		

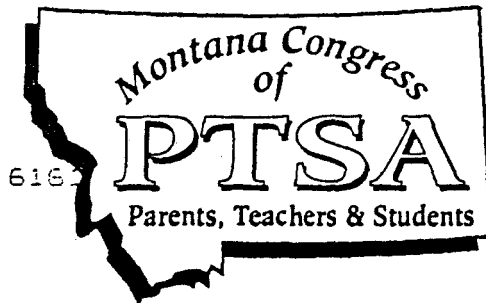


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Testimony H.B. 548
House Business & Economic Development
February 18, 1993

Chairman Benedict and Members of the House Business & Econ Dev Committee;

I am Kathy Seacat, Legislative Coordinator for the Montana Congress of Parents, Teachers and Students. We are commonly known as the Montana PTSA and with over 10,250 members--we are the largest child advocacy organization within the state. The welfare and safety of children and youth is at the heart of all we do and advocate. One of our objects is to secure adequate laws for the care and protection of children and youth in our state and nation.

Today I am here on behalf of our 10,250 members to address H.B. 548 and to ask you to support this bill which will reduce the number of young people in Montana who use tobacco products and prohibit the use of tobacco products in our public schools--thus establishing Smoke-Free schools.

The Montana PTSA develops positions based on a democratic process at our state and national conventions. The sale of tobacco products to minors and development of Smoke-Free schools are two such resolutions. I have attached copies for your information.

The selling of tobacco products to minors must be stopped. Each day more than 3,000 teenagers become regular smokers. Ninety percent of all smokers take up the habit before reaching the age of 20 and fifty percent by the age of 14. In 1992, ('Modern Maturity' Feb 1992, Vol 35) 75% of teenagers did NOT smoke. Therefore, 25% of our teenagers are regular smokers--compared to 12% in 1990 and 10% the year before. At least 100,000 children under the age of 13 are also regular smokers...

Easy access assures our children and youth that they can obtain tobacco products despite known health risks and/or parental disapproval. The health risks are great. 'Smoking kills more Americans each year than alcohol, cocaine, crack, heroin, homicide, suicide, car accidents, fires and AIDS combined.' ('New York-Parent Teacher' Jan/Feb 1992) Tobacco is as addictive as cocaine and heroin. Tobacco is the only product that when used as intended, kills. Research has also identified tobacco as a gateway drug. Ninety-two percent of adolescent marijuana smokers are regular cigarette smokers.

The "School Tobacco Referendum" introduced in the 1991 legislative session allowed seventh through 12th graders in Montana schools to voice their opinion of smoking. The majority of students voted 'Yes, I do favor requesting that stores refuse to sell cigarettes and tobacco to persons under 18 years of age.'

The protection of those in our society who are unable to protect themselves from danger is one purpose of government. Certainly the protection of 12 or 13-year-old children from easy access to large quantities of an addicting and known cancer-causing drug should be the responsibility of government.

Please support the passage of H.B. 548. Thank you for your time and attention.

SMOKE-FREE SCHOOLS

- Whereas, The first Object of the PTA is "to promote the welfare of children and youth in home, school, community and place of worship"; and
- Whereas, The U.S. Surgeon General has said that tobacco use in any form is unsafe; and
- Whereas, Non-smokers absorb nicotine, carbon monoxide and other elements of tobacco smoke just as smokers do; and
- Whereas, The 1986 report of the Surgeon General of the United States concluded that the involuntary smoking is a cause of disease, including lung cancer and other respiratory diseases; and
- Whereas, According to the American Academy of Pediatrics, children are particularly at risk of contracting tobacco related diseases; now therefore be it
- RESOLVED That the Montana PTA through its local units and councils cooperate in educational and promotional activities designed to discourage students from smoking or using tobacco in any form; be it further
- RESOLVED That the Montana PTA through its local units and councils encourage local school districts to prohibit the use of tobacco products on all school grounds in the state of Montana; and be it further
- RESOLVED That individual PTA units and councils encourage their individual school boards to make all schools within their district Smoke-Free.

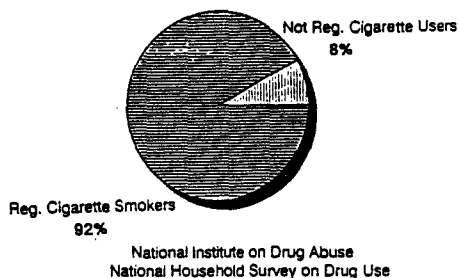
Legislative note: This resolution has to do with school policy recommendations which are carried out by local PTA unit members.

1988

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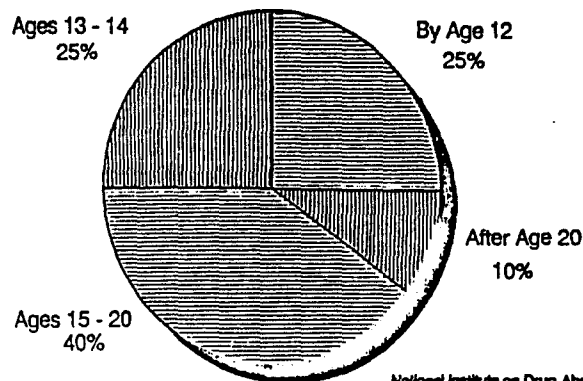
CONTROLLING TOBACCO AS A "GATEWAY" DRUG.

CIGARETTES AS "GATEWAY DRUG"
OF ADOLESCENT MARIJUANA SMOKERS



SMOKING'S NOT COOL

TOBACCO USE BEGINS EARLY
Average Age 13

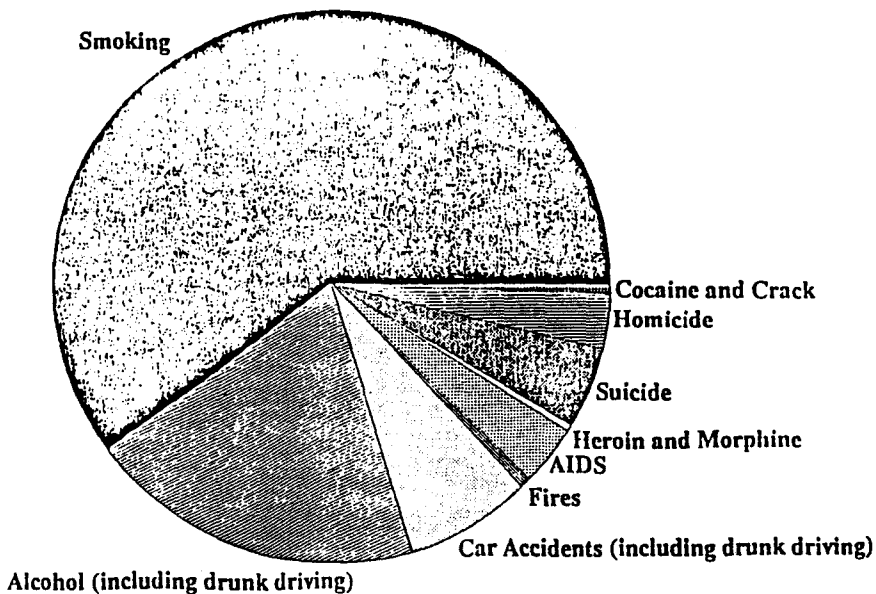


Smoking Kills More Americans Each Year Than Alcohol, Cocaine, Crack
Heroin, Homicide, Suicide, Car Accidents, Fires, and AIDS combined.

Approximate Number of Deaths:

Smoking.....	434,000 ¹
Alcohol (including drunk driving).....	125,000 ²
Car Accidents (including drunk driving).....	47,000 ³
Fires.....	4,000 ⁴
AIDS.....	23,000 ⁵
Heroin and Morphine.....	2,400 ⁵
Suicide.....	31,000 ⁵
Homicide.....	21,000 ⁵
Cocaine and Crack.....	3,300 ⁵

- ¹Federal Centers for Disease Control, 1988 data
²Surgeon General's Office, 1985 data
³National Safety Council, 1989 data
⁴Center For Disease Control, 1989 data
⁵National Center For Health Statistics, 1987 data



Smokefree Educational Services
Incorporated

375 South End Avenue, Suite 32F
New York, NY 10020
Phone: (212) 912-0960
Fax: (212) 488-8911

WOULD YOU SELL CIGARETTES TO CHILDREN?

Many do. One billion packs a year reach teenagers. Tobacco is a gateway drug. Kids can't take marijuana fumes until they have conditioned their throats with cigarettes.

by Officer Bruce Talbot

"Isn't it illegal to sell cigarettes to 13-year-old students?" At the time the principal of Jefferson Junior High School asked me that question, I did not know the answer. As a police officer assigned to teach drug prevention to the more than 1,500 students in Woodridge, Illinois, a suburban Chicago community, I had received numerous complaints from teachers, parents, and even students that Woodridge merchants were selling cigarettes to minors.

What sparked the question from the principal was an incident involving a 13-year-old girl who was seen buying a pack of Marlboros from a Mobil Oil gasoline station just two blocks from the school. Cigarette possession by students is a school violation. The principal confronted the student, found cigarettes in her purse, and suspended

her from school. Then he called me. "Isn't there something the police can do to stop this?" he asked. "I'll find out," I told him.

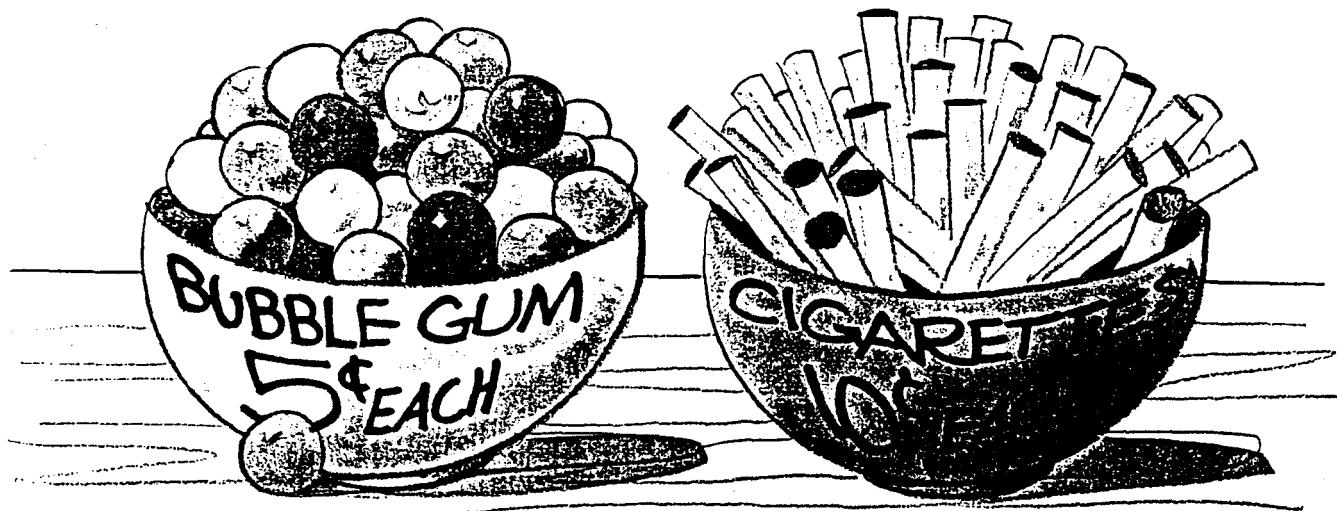
Illinois has an archaic state law adopted in 1887 that prohibits the sale of tobacco products to anyone under the age of 18. The law is a weak deterrent today. The penalty for violation is only \$50. The manager of a gasoline station said he can easily average between \$200 and \$400 per day in cigarette sales.

The tobacco statute also has a loophole big enough to drive a truckload of cigarettes through: if a minor possesses a note from a parent or guardian, the child is exempt from the age restriction regardless of age. This means a police officer or a reputable merchant must verify the authenticity of a note before enforcing the law.

Few parents are likely to want to involve their children in a police action over a forged note. I could find no evidence of the law's ever having been enforced.

The old statute, our chief of police agreed, is realistically unenforceable. But throwing in a bit of bluff is one of the tricks of the police trade. So in response to the principal's complaint, the Woodridge police sent a letter on city stationery to each tobacco-selling merchant. It stated that sale of tobacco to minors is a criminal offense under Illinois state law and also runs counter to our antidrug efforts. It closed with a warning that arrests would be made for repeat violations.

Perhaps I should explain why adolescent smoking is so important a factor in our antidrug efforts—because cigarettes are a "gateway drug" for



*Would any adult pay ten cents each for cigarettes? So who would?
The adolescents with their pocket change, that's who. That's why these bowls can
be found on checkout counters right beside the bubblegum.*

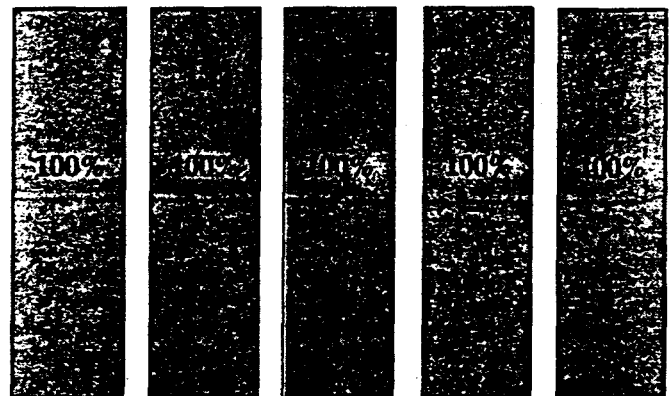
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100% OF VENDING MACHINES SELL CIGARETTES TO CHILDREN



Santa Clara
County,
California,
Pretest

Santa Clara
County,
California,
Post-test

Colorado

Washington,
D. C. area

New
Brunswick,
New Jersey

The evil sought to be reached by forbidding the sale of cigarettes in automatic vending machines was the purchase of cigarettes by immature minors. Automatic vending machines, in order to achieve their purpose, namely, dispensing with salesmen and making facile the purchase of goods without the intervention of human service, are placed in localities easily accessible to the public, are inanimate and automatic, and respond equally efficiently to coins placed therein by a boy or girl as to coins inserted by an adult.

From a 1937 decision by the Seventh Circuit Court of Appeals upholding a Chicago ordinance restricting cigarette vending machines.

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Testimony HB 548

Changing public policy to provide appropriate sanctions for sale of tobacco to individuals under the age of 18 is one part of the national trend in prevention. It would also bring Montana more closely into line with recommendations made in Healthy People 2000, the blueprint for national health policy. Tobacco has been identified by the Federal government as a gateway drug the use of which increases the probability of use of other drugs.

Most importantly for the Department of Corrections and Human Services is the Synar amendment to the Federal Substance Abuse Treatment & Prevention Block Grant. This amendment means that if we do not prohibit the sales we will lose an increasing portion of the funds available to us under the Substance Abuse Block Grant. In FY 94 there would be a loss of 10% of these funds, a 20% loss in FY 95, a 30% loss in FY 96 and in FY 97 and subsequent years there would be a loss of 40% of the funds for which we would be eligible.

We project the total amount coming to Montana in the Substance Abuse Block Grant to be close 2.7 million dollars in each of the next two fiscal years, roughly half the total amount the Department spends on alcohol and other drug abuse treatment and prevention. These funds provide support for substance abuse treatment, specialized programs for women, programs targeted to persons at high risk for AIDS, and community based prevention efforts.

The impact of these cuts would be dramatic. By 1994 if this legislation is not passed, there would be \$270,000 fewer dollars available to provide treatment and prevention services to Montana communities. By 1995 \$540,000 ; by 1996 \$810,000 ; and 1998 and after \$1,080,000 each year. The loss will be even greater if the Substance Abuse Block Grant is increased.

A key section of the Federal legislation, the Synar amendment, is the importance of enforcement. Montana I believe is the only state which does not currently have a law on the books which prohibits the sale of tobacco to those under age 18. But, there are numerous state where there is no effort made to enforce those laws. Under the provisions of the Synar amendment it is not enough to pass the law, Montana must also prepare and submit an annual report detailing the activities which we undertake to actively enforce this legislation.

Simply adopting this bill is not enough, we will need to actively enforce its provisions. If we do not, the provisions of the Synar amendment will go into force and we will lose from 10 to 40 percent of the 2.7 million dollars current available under the Substance Abuse Treatment Block Grant. We urge your passage of HB 548.

Respectfully submitted by Darryl L. Bruno

Administrator, Alcohol and Drug Abuse Division
Department of Corrections and Human Services



Beneath The Dome

EXHIBIT ⁷

DATE 2-18-93

HB 548

Students Vote to Ban Tobacco

The majority of the more than 55,000 students who participated in the 1991 Montana School Tobacco Referendum voted that retailers should voluntarily refuse to sell cigarettes and other tobacco products to anyone under 18.

The referendum, approved by the '91 Legislature and authorized by Gov. Stephens, was presented last Fall to Montana students in grades 7-12 at public and private schools.

Figures released by the state Office of Public Instruction (OPI) showed the total vote represented more than 95 percent of those eligible to participate.

In announcing the results, OPI's Director of Health Enhancement Spencer Sartorius said, "I think that this referendum shows all of us just how responsible our Montana students are, how they value their own well-being, and how they wish to enhance the health and well-being of all Montanans."

Sartorius said the state Department of Revenue is required to inform each retailers who sells cigarettes and tobacco that the referendum was approved.

Retailers will be asked to post signs indicating their participation in the ban. The signs, which will be sent to retailers by the Revenue Department, will read in part:

"Out of respect for the wishes of Montana students, this store voluntarily agrees not to sell cigarettes and tobacco to persons under 18 years of age."

Many states or localities nationwide have debated or enacted measures limiting tobacco sales to minors since Health and Human Services Secretary Louis Sullivan put forth the "Model Sale of Tobacco Products to Minors Control Act".

During 1991, according to the Tobacco Institute, five states established 18 as the minimum age for sale of tobacco products. In fact, only six states, including Montana, do not have a statewide minimum age.

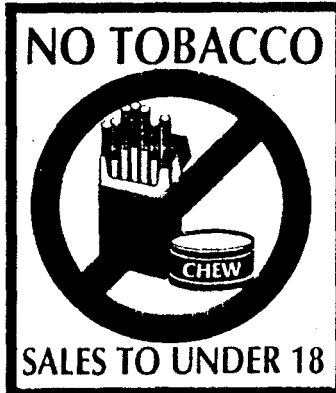
Also this year, 40 states considered legislation that would limited adult access to tobacco products. Bills passed in ten states, mostly relating to limits on the location of vending machines.

Tough Laws on Balers

The U.S. Labor Department has issued a final rule prohibiting employees under 18 years old from operating or placing material into paper balers.

The Labor Dept. is aggressively enforcing these prohibitions. Citations will be issued to retailers based solely on statements from minor or former employees who say they have on occasion placed a piece of cardboard in a baler, even when the baler has signage prohibiting use of anyone under 18.

Concerning meat slicers, minors may not operate these machines in any retail environment. The rules prohibit minors from operating, feeding, setting up, adjusting, repairing, oiling or cleaning power-driven meat-processing machines.



Only six states, including Montana, do not have a statewide minimum age.

Popular Tax Breaks Saved

Before adjourning in November, Congress saved a number of popular tax breaks from expiring at the end of 1991.

By a unanimous (420-0) vote, the House approved House Bill 3909, which extended for six months a group of 12 expiring provisions, including the Targeted Job Tax Credit, the exclusion for employer-provided education, the deduction of health insurance premiums for the self-employed, and the business exclusion for employer-provided legal services. The Senate approved the bill by voice vote.

The chairmen of the two congressional tax-writing committees said during floor debate Nov. 26 that they plan to hold hearings on the tax provisions in 1992, and consider the permanent extension of some of them.

Any provisions that are found to be ineffective will be allowed to lapse after the new, six-month extension expires.

Restrict Electronic Monitoring

The House Education and Labor Subcommittee on Labor-Management Relations, chaired by Montana Democrat Pat Williams, approved electronic monitoring by a 16-6 vote Nov. 20.

The subcommittee members approved a substitute amendment by Williams that would exempt from the bill transportation industry

employers and law enforcement agencies that are conducting investigations.

HB 1218 would limit the use of electronic surveillance in the workplace unless the employer provides detailed written disclosure to all employees and job applicants of the types of electronic monitoring being used.

Dairy Amendment Fails

The Senate defeated legislation that would have raised milk price supports from \$10.10 to \$11.10 per hundredweight, and would have created a diversion program for dairy cows entering the beef market through 1995.

The Senate rejection of the plan came a week after the House Agriculture Committee scrapped a similar plan amid opposition from the dairy industry.

Dairy-state lawmakers tried vainly for most of 1991 to draft legislation that they said would aid farmers hurt by a year-long plunge in prices.

But Sen. Richard Lugar (R-IN) argued successfully that the amendment should be defeated because "dairy farmers will not be helped one whit.... This would, in fact, be a hidden tax of \$1.5 billion for consumers."

After the defeat of the dairy amendment, Senate legislation relating to the WIC program was withdrawn. This would have prohibited retailers from selling WIC milk at more than \$1.06 a gallon or \$.59 a half gallon above a state's milk price.

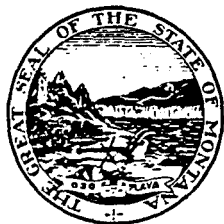


EXHIBIT 8
DATE 2-18-93
HB 548

OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3095

Nancy Keenan
Superintendent

February 18, 1993

TESTIMONY

My name is Spencer Sartorius. I am the Administrator of the Health Enhancement Division for the Office of Public Instruction. I am here today to speak in favor of HB 548 to prohibit the sale of tobacco products to minors.

The Health Enhancement Division of OPI administered the student "tobacco referendum" required by the 1991 legislature in HB 849. This referendum called for a vote of all students enrolled in grades 7 through 12 to decide whether retailers should sell cigarettes and tobacco to persons under 18 years of age. This was an innovative attempt to include youth in decisions regarding tobacco and health and to decisively demonstrate peer disapproval of tobacco use. Over 55,000 Montana students voted and by a 60% to 40% margin, their message was clear: tobacco products should not be sold to youth under 18 years of age.

The Health Enhancement Division also promotes health education in the schools and administers the federally funded Drug-Free Schools and Communities program which seeks to prevent drug, alcohol, and tobacco use and misuse. For these programs to be successful, we need to send a clear, consistent message that drug, alcohol and tobacco use for minors is wrong and will not be tolerated. The message sent by the state legislature will assist schools, communities and parents in the promotion of positive health messages to our young people.

The Office of Public Instruction supports HB 548. Thank you.

EXHIBIT 9
DATE 2-18-93
HB 548

1991

Montana Youth Risk Behavior Survey



Montana Office of Public Instruction
and the
Montana Board of Crime Control

Tobacco, Alcohol, and Other Drug Use

Year 2000 Objectives:

Increase by at least one year the average age of first use of cigarettes, alcohol, and marijuana by adolescents aged 12-17.

Reduce the initiation of cigarette smoking by children and youth so that no more than 15 percent have become regular cigarette smokers by age 20.

CDC Rationale:

Tobacco use is the single most important preventable cause of death in the United States, accounting for one of every six deaths. Smoking is a major risk factor for heart disease; chronic bronchitis; emphysema; and cancers of the lung, larynx, pharynx, mouth, esophagus, pancreas, and bladder. If 29 percent of the 70 million children now living in the United States smoke cigarettes as adults, then at least five million of them will die of smoking-related diseases (Office on Smoking and Health, 1989). In addition, smoking is related to poor academic performance and the use of illicit drugs and alcohol (Johnston, O'Malley, & Bachman, 1987). Over one million teenagers begin smoking each year (U.S. Department of Health and Human Services, 1990b).

Montana Data:

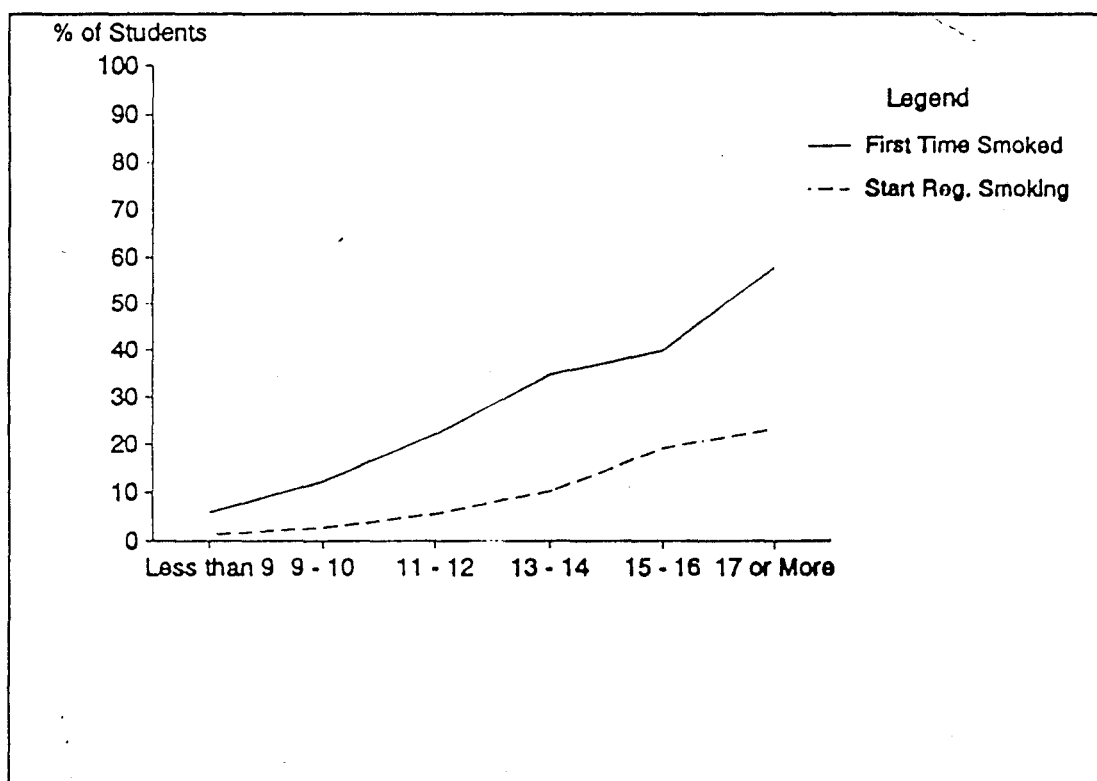


Figure 8. Age for the First Time 12th Grade Students Reported Smoking a Whole Cigarette and/or Age When 12th Grade Students Reported That They Regularly Started Smoking

- For all students, the median age of first use of cigarettes was 12 years old.
- 48.1 percent of all females and 56.1 percent of all males reported that they have already tried cigarette smoking or they think they will try smoking in the next 12 months.
- 21.8 percent of all students responded that they smoke regularly.
- 8.8 percent of all students smoked cigarettes all 30 days during the past 30 days.
- Of those students, (28.4%) who reported that they smoke, 58.6 percent indicated that they did try to quit smoking cigarettes during the past six months.

EXHIBIT 9
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Year 2000 Objective:

Reduce smokeless tobacco use by males aged 12-24 to a prevalence of no more than 4 percent.

CDC Rationale:

Oral cancer occurs more frequently among smokeless tobacco users than nonusers and may be 50 times as frequent among long-term snuff users. Smokeless tobacco use can lead to the development of oral leukoplakia and gingival recession and can cause addiction to nicotine (Public Health Service, 1986). Between 1970 and 1986, the prevalence of snuff use increased 15 times and chewing tobacco use increased four times among men aged 17-19 (Office on Smoking and Health, 1989).

Montana Data:

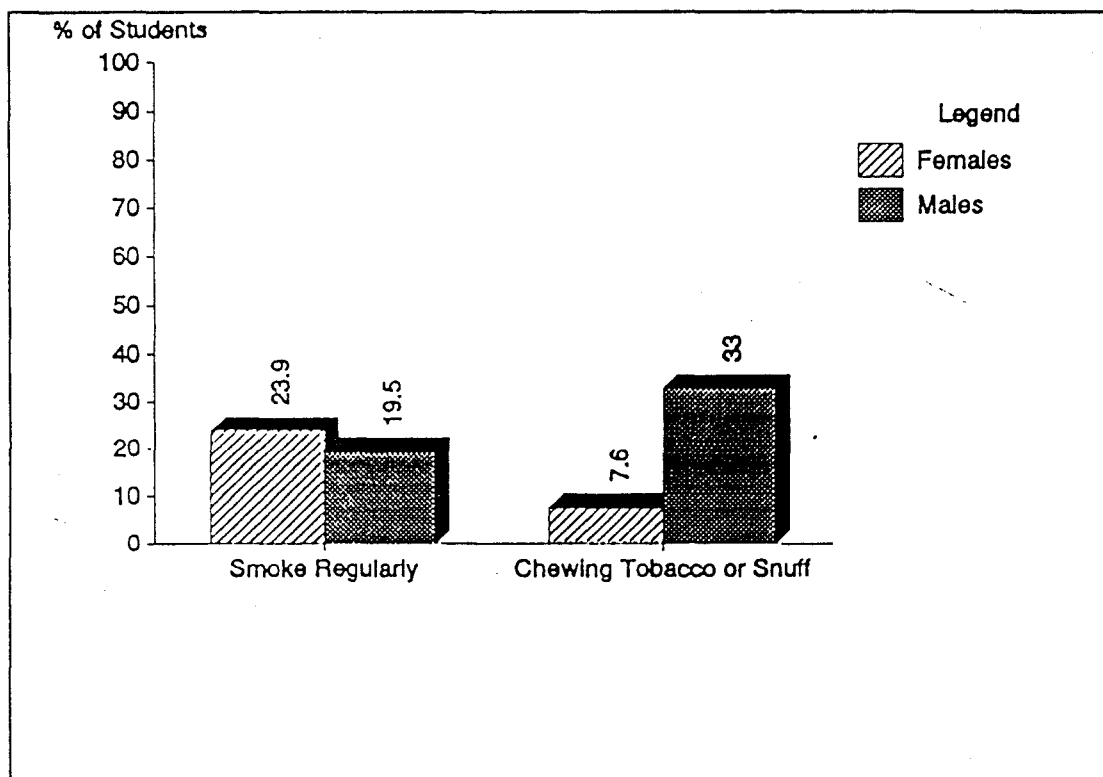


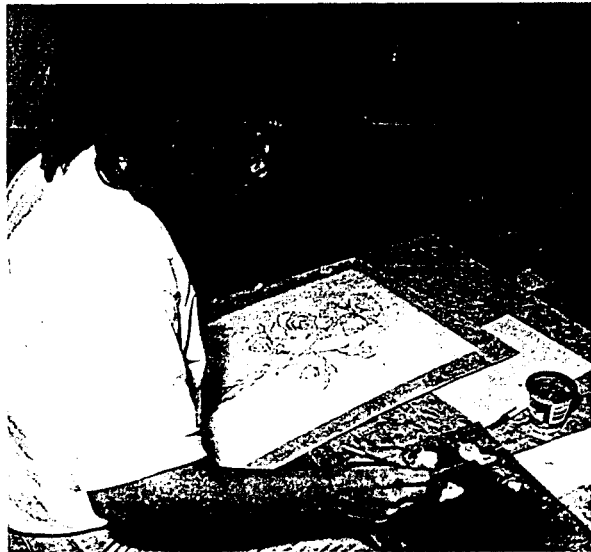
Figure 9. Percentages of Students Who Reported That They Smoke Regularly or That They Used Chewing Tobacco or Snuff in the Past 30 Days By Gender

- 33 percent males reported having used chewing tobacco or snuff during the past 30 days as compared to 7.6 percent of the females.
- Of those students who described themselves as Native American or Alaskan Native, 48.7 percent of the males and 32.0 percent of the females reported using chewing tobacco and/or snuff in the past 30 days.

EXHIBIT 9
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The State of Native American Youth Health

February 1992



Chemical Use	Male		Female	
	National Native American Sample	Rural Minnesota Non-Natives	National Native American Sample	Rural Minnesota Non-Natives
Use Cigarettes Weekly or Daily	20.0	11.0	18.3	11.7
Use Chewing Tobacco Weekly or Daily	24.0	9.5	12.6	0.1
Use Beer/Wine Weekly or Daily	14.1	17.1	10.2	15.8
Use Marijuana Weekly or Daily	14.0	1.5	9.7	1.0
Use Inhalants Monthly, Weekly or Daily	1.3	0.3	2.0	0.6
Potential Problem Drinker	12.2	15.2	8.5	14.3

Substance Use

Few national studies of substance use have included adequate samples of Native American youth upon which to make estimations. Compared to national data on drug use, such as the annual Monitoring the Future Survey and NIDA's household surveys, Indian youth appear to be more likely to have tried most substances than other groups of teens. While more than 70% appear to be at fairly low levels of risk for chemical dependency in the present survey approximately 20% are at high levels of risk, based upon frequency of use, and number of substances regularly used.

More importantly, it appears that American Indians begin abusing various substances at a younger age than their Anglo counterparts. By the time they are in the 7th grade, 28% of Indian youth report at least one episode of getting drunk, 44% have tried marijuana, 22% inhalants, 12% stimulants and 72% cigarettes.

The high rates of mortality among youth related to suicide and motor vehicle crashes are no doubt associated with substance abuse. Among adults, mortality associated with alcoholism is nearly twice that of other races. This striking difference is first observable in the age group 25 to 34, and increases with the two subsequent age groups (IHS, 1990).

- Regular marijuana use is far more prevalent among Native youths than in rural Minnesota.
- By the 11th grade regular use of beer or wine is comparable between rural Anglo youths and among the Native teens surveyed.
- Younger Native adolescents use all substances more commonly than do their Minnesota age-mates in rural Minnesota.

Comparison of Native and Rural Minnesota Youth's on Regular Substance Use

Chemical Use	8th Grade		11th Grade	
	National Native American Sample	Rural Minnesota Non-Natives	National Native American Sample	Rural Minnesota Non-Natives
Use Cigarettes Weekly or Daily	15.4	4.7	27.3	17.4
Use Chewing Tobacco Weekly or Daily	17.0	2.1	10.1	6.7
Use Beer/Wine Weekly or Daily	8.9	5.0	25.0	24.9
Use Marijuana Weekly or Daily	9.0	0.3	7.8	1.4
Use Inhalants Monthly, Weekly or Daily	2.3	0.6	3.2	0.5

References

Bergeisen, L. Indian adolescent physical health. Unpublished manuscript prepared for the Office of Technology Assessment, US Congress; November 12, 1989.

Broussard, BA, Johnson, A, Himes, JH, *et al.* Prevalence of Obesity in American Indians and Alaska Natives. *American Journal of Clinical Nutrition*, (Vol. 53) 15:35-42* June 1991 Supplement.

Indian Health Service. *Trends in Indian Health, 1990*, Rockville, MD: US Department of Health and Human Services, Public Health Service, 1990.

U.S. Congress, Office of Technology Assessment. *Indian Adolescent Mental Health*. Washington, DC: U.S. Government Printing Office, 1990.

US Census, 1990

200-37-19
2-18-93
HB 548

Montana Council for Maternal and Child Health

54 N. Last Chance Gulch • Helena, MT 59601 • 443-1674

EXHIBIT 10
DATE 2-18-93
HB 548

Testimony before the
February 17, 1993

Re: HB 548: Tobacco Sales to Minors

The Montana Council for Maternal and Child Health, in our *Agenda for the Next Generation*, has endorsed this effort to restrict tobacco sales to minors. We do so out of a concern for the health of our state's youth, a respect for their opinion as expressed in the 1991 student referendum on this issue, and because Montana depends on block grants from the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) for prevention and treatment of substance abuse, which has an enormous effect in reducing the risks facing children who might otherwise grow up in substance abusing homes.

All who will testify here today recognize a need to reduce the use of tobacco products among young people. Tobacco use accounts for dreadful amounts of disease, death, and expense in Montana. It is so addictive that prevention is our only effective tool. And we know that young people, highly vulnerable to pervasive advertising of tobacco products, are more likely to use tobacco if those products are readily available.

Retailers and tobacco representatives will tell you that they endorse this bill in concept. In fact, the Tobacco Institute has developed some attractive "educational materials" directed at students. But manufacturers continue to spend their advertising money attracting new smokers with campaigns featuring attractive cartoon characters, animals, and sex. Joe Camel, of course, combines all three, as a cartoon animal who, among other juvenile activities, teaches adolescent boys how to pick up women.

Retailers suggest that, while they might agree with a ban on sales to minors, civil penalties and licensing laws are too complicated, and will interfere with their profitable and economically productive businesses. Identification of young smokers before a sale, they say, needlessly complicates their customer relations. But consider this: if a retailer's tobacco business is so heavily involved with young buyers that prior identification would pose a hardship, then in all probability that business is one of the reasons we need this bill. The good faith retailer will have no problem complying with this bill. The repeat offender, still selling to minors after being fined three times, should not be allowed to continue to sell. We must not care more about protecting profits than protecting our children.

PL 102-321 requires enforcement and accountability at the state level. HB 548 applies reasonable, effective enforcement at the community level. It does impose a burden on the sellers of tobacco products. But the burden of our failure to act falls on the future of Montana's Next Generation.

We urge your support of HB 548.



Paulette Kohman, Executive Director

Mt. Chapter, American Academy of Pediatrics • Mt. Section, American College of Ob/Gyn • Healthy Mothers, Healthy Babies, Mt. Coalition • March of Dimes, Big Sky Chapter • Montana Academy of Family Physicians • Shodair Children's Hospital • Community Medical Center, MCH Services • Montana Deaconess Medical Center, MCH Services • St. Vincent Hospital and Health Center, Women's Health Services



Excerpts from the "Synar Amendment"

Section 1926(a)(1) of Public Law 102-321 requires that

"The secretary may make a grant . . . only if the State involved has in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18."

Section 1926(b)(1) provides that part of

". . . a funding agreement for a grant . . . is that the State involved will enforce the law described in subsection (a) in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18."

Section 1926(b)(2) adds the requirement that

". . . the state involved will --

(A) annually conduct random, unannounced inspections to ensure compliance with the law described in subsection (a); and

(B) annually submit to the Secretary a report describing --

(i) the activities carried out by the State to enforce such law during the fiscal year preceding the fiscal year for which the State is seeking the grant;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18; and

(iii) the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought."

EXHIBIT 10

DATE 2-18-93

HB 548

*Reprinted from JAMA, The Journal of the American Medical Association
January 6, 1989 Volume 261
Copyright 1989, American Medical Association*

Reducing the Illegal Sale of Cigarettes to Minors

David G. Altman, PhD; Valodil Foster, MPH; Holly Pasenick-Potter, Joe B. Igo, MPA

This study reports on an effort to stop the illegal sale of cigarettes to minors. In Santa Clara County, Calif, 412 stores and 30 vending machines were visited by 18 minors aged 14 through 16 years with the intent to purchase cigarettes; they were successful at 74% of the stores and 100% of the vending machines. After an aggressive six-month campaign using communitywide media, direct merchant education, contact with the chief executive officers of chain stores and franchise operations owned by major companies, and grassroots work with community organizations, the percentage of stores with illegal over-the-counter sale of cigarettes to minors was reduced to 39%. Sales from vending machines were not reduced. While much remains to be accomplished in stopping the illegal sale of tobacco to minors, data from this study illustrate that a well-designed community and merchant education campaign can significantly reduce such sales.

Average Age 13

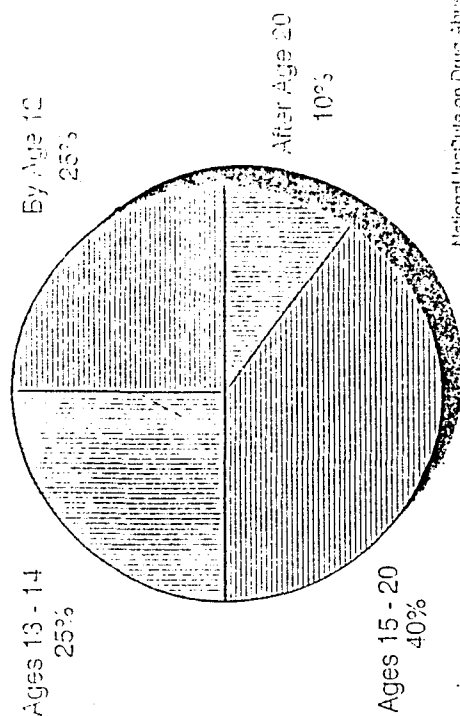
National Institute on Drug Abuse
National Household Survey on Drug Use

Table 3. Purchase Success Before and After Increased Penalty for Sale to Minors

WHITE BEAR LAKE MINNESOTA POPULATION 25,000	Over the Counter	Purchase Success			
		# of Attempts	Vending Machine	# of Attempts	Mean**
April-May 1982					
15-Year-Old Girl	84%	68	89%	37	86%
14-Year-Old Boys	22%	73	74%	43	41%
TOTAL	53%	141	82%	80	64%
July 1989					
15-Year-Old Girl	66%	79	p<0.02* 89%	47	NS* 75%
14-Year-Old Boys	9%	78	p<0.03* 70%	46	NS* 32%
TOTAL	38%	157	p<0.02* 80%	93	NS* 53%

*Statistical comparisons are within age-sex category of purchaser, between 2 time points.
**A directed t

INSTRUCTIONS:

UNIFORM COMMERCIAL CODE-FINANCING STATEMENT - FORM FS-1

a. Please TYPE this form.

b. Remove Secured Party and Debtor copies and submit remaining set to the Secretary of State with the \$7.00 Filing Fee.

c. The Secretary of State will return the pink copy as an acknowledgment. At a later time, Secured Party may date and sign the termination legend on this copy and use it as a Termination Statement.

d. If the space provided for any item(s) is inadequate, the item(s) should be continued on additional sheets. Only one copy of such additional sheets need be presented with this set. No additional fee.

This FINANCING STATEMENT is presented to a filing officer for filing pursuant to the Uniform Commercial Code.

Name and Address of Debtor
 Shelley M. Cheney
 Office of Clerk and Recourder
 Gallatin County Courthouse
 Bozeman, Montana
 see attachments accommodation
 party under UCC 3-415

Social Security/Tax ID # 145062984County of Residence Gallatin

Name and Address of Secured Party
 LeRoy M. Schweitzer
 c o Postal Address
 NON-DOMESTIC NON-RESIDENT
 4874 Itana Circle
 Bozeman, Montana state
 (republic) Texas v White(1869)

Pre-paid Acct. # 000240743

Montana Secretary of State Filing Officer

EXHIBIT 12
 DATE 2-18-93
 HB 435

Name and Address of Debtor
 Mike Chestnut
 Office of Sheriff
 Law and Justice Center
 Bozeman, Montana
 see attachments accommodation
 party under UCC 3-415

Social Security/Tax ID # 145062985County of Residence Gallatin

Type of Filing - MUST check one

☒ Commercial Filing
30-9-401(1)(c)☒ Agricultural Filing
30-9-403(8)☒ Transmitting Utility
30-9-409

☒ Informational Filing
000240743
 PRIVATE HOMESTEAD DOCKET NO.

Name and Address of Assignee of Secured Party
 Lou Aleksich, Jr. by
 accommodation signature by
 LeRoy M. Schweitzer, prior
 lienholder, see Certificate
 of Nationality of file at t
 Gallatin County Courthouse
 Bozeman, Montana state

Pre-paid Account # 000240743

Name and Address of Debtor
 William A. Cohan
 1410 Santa Fe Drive
 Encinitas, Ca. 92024
 see attachments accommodation
 party under UCC 3-415

Social Security/Tax ID # 145062986

County of Residence _____

Name and Address if Record Owner or of Lessee of Real Estate Concerned:

LeRoy M. Schweitzer
 c o Postal Office Address
 NOM-DOMESTIC NON-RESIDENT
 4874 Itana Circle
 Bozeman, Montana state
 united States' of America
 (Texas v White) 1869 "state"
 Citizen of Montana

This Financing Statement covers the following types (or items) of collateral. If the collateral is agricultural products be specific as to type of product(s); example: wheat, barley, cattle, hogs, milk, honey, etc. (If collateral is crops growing or to be grown or goods which are or are to become, fixtures, also describe real estate concerned and add name and address of record owner or record lessee of real estate):

(See: attachments)

To be completed if applicable: The above listed agricultural product(s) is produced/located in
Montana state (republic) includes any of the 56 county(ies).

Check ☒ If covered. ☒ Proceeds of collateral are also covered. ☒ Products of collateral are also covered.

Number of additional sheets presented: 6

This statement is filed without the debtor's signature to perfect a security interest in collateral (check appropriate box)

- ☐ already subject to a security interest in the state of _____ when it was brought into this state, or
☒ which is proceeds of the original collateral described above in which a security interest was perfected.

"without prejudice" UCC 1-207 under 3-505
 "without recourse" MCA 30-1-207

Signature(s) of Debtor(s)

By:  LeRoy M. Schweitzer

Signature(s) of Secured Party(ies)

teste meipso this 4th day of August, 1992 ex officio

SECURED PROPERTIES AND COLLATERAL

As security for and in consideration of all past, present, and future advances, claims, and other obligations, Debtor hereby grants LeRoy M. Schweitzer a security interest in all of the following types and items of property ("Collateral" herein) in which Debtor has and hereafter acquires any and all rights, titles, and interest, and rights present, past, and future wheresoever located and whether in possession of the Debtor, a warehouseman, bailee, trustee, agent, and/or other person, and all increases, therein and replacement products, proceeds, including the Bond/Body/Corporeal and incorporeal hereditaments, thereof. Proceeds include but are not limited to inventory, returned merchandise, accounts, chattel papers, general intangibles, insurance proceeds, documents and writings, money, goods, equipment, instruments (negotiable and non-negotiable), and any and all tangible and intangible properties arising under the sale, lease, if need be by payment through draft, and all dispositions of collateral, and includes the bonds, Bodies, and collateral herein, hereafter referred to as "Assets". This is to be set for payment, unless otherwise stated, by draft as substance in (Distress Warrant), for remedy of injuries inflicted upon Secured party, an innocent Citizen of Montana (the republic) by Priority lien. Acknowledgment of remedy and release of Citizen with no restrictions set thereon, as a Free White Man, and ALL properties are set by (9-103, & 10-104) for multi State/state collection. Errors have been made upon a Free Sovereign White Man of the Republic de jure Montana state Citizen with no connection to the corporate United States/Montana state, and who is not a "citizen of the United States/United States citizen", i.e., the District of Columbia. Injuries set the Secured party are in the amount of 8,000,000 Dollars of substance in Lawful Money of Account in Gold or Silver in specie of united States of America minted Coin in which this claim arises. Therefore, instructions are as follows for Debtors.

Kris A. McLean, Dorris M. Poppler, John Whelan, Paul G. Hatfield, Carl E. Rostad, Lou Aleksich, Jr., and Stan Stephens are to set forth their "Public Bonds" for the payment of the "TRUE BILL" set against a sovereign Citizen. A draft will be drawn thereupon for the sum of 8,000,000 in above described Lawful Money of Account in substance to be drawn off your substance for failure to protect a Citizen of Montana in this republic state. If your "Bond" is insufficient, your property will be attached to balance the difference and shortcoming, and if this is still not sufficient to satisfy in full this claim, your "Body" will be attached for the difference to balance the account. This will be further set with the Secretary of Commerce for notification of your obligations to a Citizen of Montana (the republic). Your lien will be set for a term of 100 years or until all obligations are herein set and fulfilled to the Secured party's acknowledgment and only then will a release be set. If any property (Collateral herein) is taken to satisfy this claim, you will be held for the loss with no recourse toward the Secured party. The draft will be set payable the the United States of America Treasury as "Non-negotiable" to be paid upon receipt thereof, directed to the United States District Court, Butte Division, Butte, Montana for them to direct

to the appropriate parties for collection and to direct the Sheriff of Gallatin County to collect the substance for payment (Balance) of the "TRUE BILL". Only by the hand and seal of the Secured party can release be given and he must be of sound mind, claimed sane, and alive, and in good health as at the time of unlawful imprisonment into a foreign corporate country, and no power is given to anyone else to allow release of this obligation (lien). These are your notices.

Stan Stephens is instructed to do the following:

Mr. Stephens is liable for the State in whole, both the corporate state and the "Protection" of the Republic State, that being each white Citizen of Montana, individually. He has chosen to side with the corporate United States, therefore, he is a foreigner in which he must now be bonded in fact to perform for the Republic of Montana. Therefore, by his failure to uphold the Republic of Montana and protect it's Citizens, especially the Secured party, a Bond of 8,000,000 Dollars as above described and identified is set in draft form to aid in the balance of the account ("TRUE BILL") for this private Citizen of Montana to redeem his freedom. If he does not wish this to be sent forth, he is to take whatever measures is needed to secure the freedom of this Citizen of Montana, including, but not limited to calling out the "Militia" of the State to secure it from foreign "Agents". This order comes from the State itself, being "we the People" are the State, [Texas v. White, 1869], and if needed, call upon the Sheriff for further assistance to protect the People, and to have returned the Secured party to his Sovereign domicile dwelling, Montana state. Any aid that he deems necessary to return the "Safe" return of the Secured party, is hereby and by the State authorized. This claim is set for 100 years and can only be released by the Secured party's hand and seal. No power of attorney is given to anyone for this release, and in order to secure this release, the Bill must be balanced, or the safe return of the Secured party to complete freedom under this Republic with no ties or nexus of future wrongs being set thereon, nor harassments, abuse, nor any other wrongs toward this private Citizen of Montana (the Republic). If draft is set for balance of account, and if your "Bond" does not cover such, then all collateral herein set will be collected for debt. If collateral does not cover debt of the draft, then your "Body" will be attached for account, and you will serve the time needed for balance thereof. This is your notice.

"without prejudice" with explicit reservation of all
absolute rights UCC 1-207 under 3-505
without recourse" MCA 30-1-207

 "U.D."
SECURED PARTY M. Schweizer

Lou Aleksich, Jr. is directed to do the following:

Mr. Alecksich, Jr., Clerk of the United States District Court, Butte Division, Butte, Montana, is hereby directed that an accommodation signature (UCC 3-415) will be set forth since you are bonded and no longer can function within your corporate capacity. If you act in your sovereign capacity as the True United States' Magistrate and set forth the order for the immediate release of the Secured Party, being a Citizen of Montana (the Republic), you would obtain immediate release from this claim set against you for denial of rights as set within your letter filed March, 2, 1992 in regards to cause/chattel No. CR 91-BU-PGH. If you act within this capacity, you are to file, instruct, and direct the appropriate papers to the proper parties for the immediate release of the Secured party. This is your alternate function within this Court, and you have this power to perform and correct the errors set against the Secured Party and the violations of his substantial, GOD given, and protected rights by the Constitution of 1787, which you have also violated. A draft is being drawn off your bond for the sum of substance in the balance of 8,000,000 Dollars above described and identified, and will be set against the collateral assets herein listed. If your collateral assets will not cover this draft, your body will be required to balance the claim herein set and will be collected for the service thereof as set within the commerce requirements the "lawyers" have placed upon you and all individuals. Only by the immediate release of this Sovereign Citizen of Montana (the republic), being held within a Foreign Customs Warehouse, will acknowledgment of your release from your/these obligations be set forth. This is a 100 year lien and can only be nullified by the hand and seal of the Secured Party and none other. You are further instructed to call up the balance of the alleged "TRUE BILL", so the balance may be satisfied if any Bill exists, and direct the drafts to the United States Department of Justice, c/o The Citizens and Southern National Bank, P.O. Box 100573, Atlanta, Georgia 30384, to Account # TRAT 33332891007YXCF and Collection Office: IAN, Transmitting Utility # (319) 363-6333, where balance will be settled if a balance exists and direct for immediate release of the Secured Party from the Foreign country which holds him (Title 18 USC 4107, 4108). Additionally, any and all documents, (Petitions, Affidavits, Writs, and any others) sent by the Secured Party, will be directed to the appropriate justices or judges for correction of errors therein stated by the Hand and Seal of this Sovereign Secured party for immediate remedy therefrom. This is your notice.

[HABEAS CORPUS WRIT ATTACHED]

All parties herein are set to follow the instruction set to the letter and give all aid thereby for the release of this Citizen of Montana (the republic) by the will of GOD Almighty through this lien. Only by the sound, safe, healthy and true signature of this Secured Party will any of these liens be released, for no one is given authority for such power by this individual, and only my Hand and My Seal can terminate this lien. If any draft is presented and set for collection, any collateral herein is deemed given without recourse upon the Secured party in which the Debtors


take all responsibilities therefrom. This is legal notice of the intent for "International Sight Draft", as serving for "Letter of Advice", (UCC 3-701) and notice thereof.

PRESENTED RESPECTFULLY

"without prejudice" UCC 1-207 under 3-505 with
explicit reservation of all rights
"without recourse" MCA 30-1-207

ATTESTED

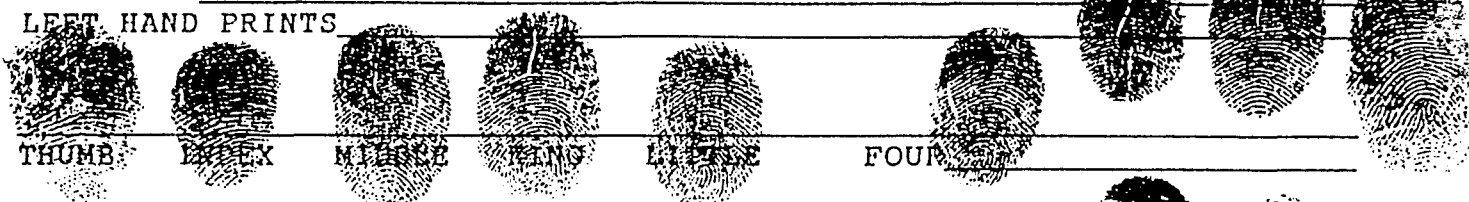
[Court Seal]

 LeRoy M. Schweitzer "U.D."
SECURED PARTY: LeRoy M. Schweitzer
sui juris, UNDER DURESS

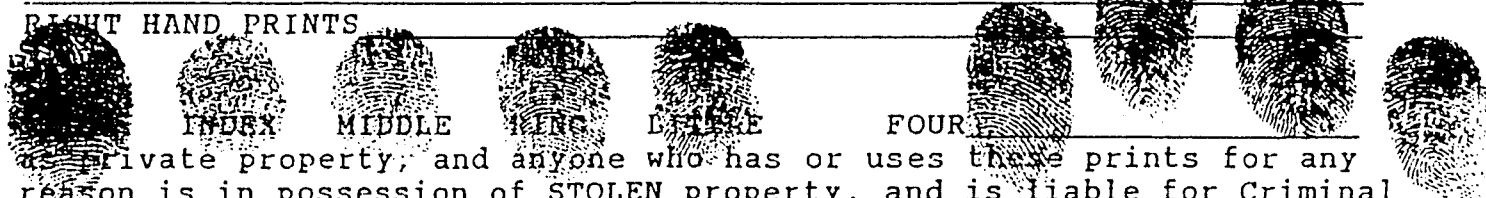
teste meipso this 16th day of July, in the year of our GOD Almighty
through our Redeemer Joshua the Messiah, A.D., 1992

Private corporate social security number as 517-42-3496, from the time of its obtaining by other parties, is and was set as private, and is not to be used for identification purposes as set upon the original card, and is hereby made private by filing, back dated to the time of first appearance, and if needed, will be further set by number 907-21-1938, as a non-resident number, being set explicitly for the sovereign Montana Citizen, and no part of the corporate state, unless chosen, and cannot be used against said sovereign Citizen of Montana (the Republic), by right to Contract without abuse of power as set in the National Constitution of 1787, backed by the Bill of Rights of 1791, Declaration of Independence of 1776, Magna Charta of 1215, and the Holy Bible, being the Word of our GOD Almighty through our Redeemer Joshua the Messiah. All finger prints are set:

LEFT HAND PRINTS



RIGHT HAND PRINTS



as private property, and anyone who has or uses these prints for any reason is in possession of STOLEN property, and is liable for Criminal Prosecution under the Laws of the Montana State Republic and the Common Law of the Land under the Republic de jure. FURTHER, all hand prints, licenses, cards, documents, writings, chattel paper(s), pictures, and/or anything in the possession and/or claimed by this Sovereign Citizen of Montana of these united States' of America, namely, LeRoy M. Schweitzer being an Allodial Citizen of Montana, is private property, and any use of it without explicit consent of this Sovereign in writing and under My Hand and My Seal is a Criminal Act and is Stolen Property under the Laws of the Republic and the Land. Such pictures as are as set forth: Inmate Account Cards given to this Sovereign, Drivers license, I.D. Cards, etc. including but not limited to photographs of any size. Any signatures obtained by force, fear, duress, intimidation, duress, coercion, deceit, cunning, misrepresentation, color of law and/or any way besides honesty and truth is null and void, and any signature is set as private property except those I willingly, knowingly, voluntarily and intentionally give by honest application of my own free will. All properties are private property, back dated (nunc pro tunc) to the time of birth of this Citizen of Montana (the Republic) as private property, and this filing supersedes any and all writings and documents that say otherwise, that is, was or/and obtained by this Citizen of Montana (the Republic), and if in the possession of another, unless authorized by this Citizen of Montana herein (Secured Party), is Stolen property, and those parties are liable

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2-18-93
HB 635

for Criminal charges under the Laws of the Land and the Montana state Law of the Republic state. This is set as Lawful and True, and is hereby signed, sealed and protected as truth and further sealed by the State as truth.

ATTESTED:

[Court Seal]

"without prejudice" with explicit reservation
of all rights UCC 1-207 under 3-505

without recourse" MCA 30-1-207

LeRoy M. Schweitzer "U.D."
LeRoy M. Schweitzer, sui juris/elisor

[Texas v. White, 1869, STATE

teste meipso this 16th day of July, in the year of our GOD Almighty through Joshua the Messiah, A.D., 1992

Private property is set as BODY, described as:

Calcium, 2%; Carbon, 18%; Chlorine, 0.15%; Hydrogen, over 10%; Nitrogen, 3%; Oxygen, 65%; Potassium, 0.35%; Sodium, 0.15%; Sulfur, 0.25%; also set as: W/M/BD/07-21-1938; HT/6'1/2"; WT/190lb.; HR/BLD; EY/BL.

ATTACHMENTS:

Search Warrant of Dwelling with listing of Private Property thereon. All set hereon is private property, superseded by the State and this document as a Declaration of Private Property, and is set as Stolen Republic de jure State property, [Texas v. White, 1869]; and whoever has and/or has claimed and stolen such properties and/or destroyed such properties are held explicitly liable for Criminal activities, conspiracy to defraud the Republic de jure, along with any other Charges set upon the Laws of the Land and the Republic Montana state. If it is verified that Treason, War, Conspiracy and any other High Crimes are being brought against the Republic of Montana by another State and/or corporation state, Country, Land, government, Nation, etc., they will be prosecuted by information and tried in and under the de jure Republic Montana state and de jure Citizens herein with no "United States citizens/citizens of the United States" nor any resident of the state of Montana or resident of the United States being involved. This is a sacred and sworn Declaration as truth and being known to this Republic de jure of Montana Citizen as truth. [Attachments hereto are set as private property in our de jure Republic state].

ATTESTED:

[Court Seal]

"without prejudice" with explicit reservation
of all rights (UCC 1-207 under 3-505)

without recourse" MCA 30-1-207

LeRoy M. Schweitzer "U.D."
LeRoy M. Schweitzer, sui juris/elisor

[Texas v. White, 1869] STATE, Allodial Citizen of Montana state

teste meipso this 16th day of July, in the year of our GOD Almighty, through our Redeemer Joshua the Messiah, A.D., 1992

Amendments to House Bill No. 548
First Reading Copy

Requested by Rep. Pavlovich
For the House Judiciary Committee

Prepared by David S. Niss
February 13, 1993

EXHIBIT 13
DATE 2-18-93
HB 548

1. Page 3, line 18.

Strike: "It is illegal to sell or distribute"

Insert: "Montana law prohibits the sale of"

2. Page 4, line 10.

Strike: "and"

Insert: "(3) places where alcoholic beverages, as defined in 16-1-106, are offered for sale; and"

Renumber: subsequent subsection

3. Page 5, line 10.

Strike: "(a)"

4. Page 5, lines 16 through 20.

Strike: subsection (b) in its entirety

5. Page 6, line 2.

Strike: "(a)"

6. Page 6, lines 5 through 18.

Strike: subsections (b) and (c) in their entirety

7. Page 8, line 5.

Strike: the first "as"

Insert: "no more"

Strike: the second "as"

Insert: "than"



Executive Office
318 N. Last Chance Gulch
P.O. Box 440
Helena, MT 59624
Phone (406) 442-3388

EXHIBIT

14

DATE

2-18-93

HB

548

SUGGESTED ADMENDMENTS TO HB 548

SECTION EIGHT SUBSECTION(2)

"LINE 4" AFTER WORD OF STRIKE \$250 AND INSERT \$200.

"LINE 5" AFTER WORD OF STRIKE \$500 AND INSERT \$300

"LINE 8" AFTER WORD OF STRIKE \$1,000 AND INSERT \$500.

SECTION EIGHT SUBSECTION (3)

"LINE 12" AFTER WORD THAN STRIKE \$300 AND INSERT \$100.

"LINE 14" AFTER WORD THAN STRIKE \$500 AND INSERT \$200.

"LINE 15" AFTER WORD THAN STRIKE \$1000 AND INSERT \$500

EXHIBIT 15
DATE 2-18-93
HB 548

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE
ROLL CALL VOTE

DATE 2-18-93 BILL NO. HB 548 NUMBER _____

MOTION: Rep Simon Moved to Strike Section 9.

Motion FAILED 6-12

NAME	AYE	NO
REP. ALVIN ELLIS		✓
REP. DICK KNOX	✓	
REP. NORM MILLS		✓
REP. JOE BARNETT		✓
REP. RAY BRANDEWIE		✓
REP. JACK HERRON		✓
REP. TIM DOWELL		✓
REP. CARLEY TUSS		✓
REP. STELLA JEAN HANSEN	✓	
REP. BOB PAVLOVICH		✓
REP. VICKI COCCHIARELLA	✓	
REP. FRITZ DAILY	✓	
REP. BOB BACHINI		✓
REP. DON LARSON		✓
REP. BRUCE SIMON	✓	
REP. DOUG WAGNER		✓
REP. SONNY HANSON, VICE CHAIRMAN		✓
REP. STEVE BENEDICT, CHAIRMAN	✓	
	6	12

EXHIBIT 16
DATE 2-18-93
HB 548

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE
ROLL CALL VOTE

DATE 2-18-93 BILL NO. HB 548 NUMBER _____

MOTION: Rep Pavlovich Moved HB 548
DPAA. Motion CARRIED 10-8

NAME	AYE	NO
REP. ALVIN ELLIS	✓	
REP. DICK KNOX	✓	
REP. NORM MILLS	✓	
REP. JOE BARNETT		✓
REP. RAY BRANDEWIE	✓	
REP. JACK HERRON	✓	
REP. TIM DOWELL		✓
REP. CARLEY TUSS		✓
REP. STELLA JEAN HANSEN		✓
REP. BOB PAVLOVICH	✓	
REP. VICKI COCCHIARELLA	✓	
REP. FRITZ DAILY		✓
REP. BOB BACHINI		✓
REP. DON LARSON		✓
REP. BRUCE SIMON	✓	
REP. DOUG WAGNER		✓
REP. SONNY HANSON, VICE CHAIRMAN	✓	
REP. STEVE BENEDICT, CHAIRMAN	✓	
	10	8

Tippy & McCue

EXHIBIT 17
DATE 2-18-93
HB 596

ATTORNEYS AT LAW

1215 Eleventh Avenue
P.O. Box 543
Helena, Montana 59624
406-442-4448 FAX 406-442-8018

February 17, 1993

Roger Tippy
Mary Kelly McCue

To: Bruce McKenzie
From: Roger Tippy
cc: Rep. Benedict, Chairman
Re: HB 596, § 7

Checking the laws of some of the other states with whom Montana could supposedly reciprocate under the provisions of this bill, I learned that sec. 7 tracks only the Minnesota law. The laws of North Dakota and Wisconsin flatly prohibit any office or other soliciting of business:

North Dakota Cent. Code § 6-08-27: The provisions of [this act] may not be construed to permit a bank or trust company, organized and doing business under the laws of any other state...to establish in this state a place of business, branch office, or agency for the conduct of business as a fiduciary.

Wisconsin Stats. Ann. § 223.12 (3): No such foreign corporation, having authority to act as executor or trustee under the last will and testament of any person, shall establish or maintain directly or indirectly any branch office or agency in this state or shall in any way solicit directly or indirectly any business as executor or trustee therein. If any such foreign corporation violates this provision, such foreign corporation shall not thereafter be appointed or act as executor or trustee in this state.

The Oregon provision (O.R.S. § 713.012) allows branch offices but limits the states with which Oregon will reciprocate to Alaska, Arizona, California, Hawaii, Idaho, Nevada, Utah, and Washington. They would not reciprocate with Montana.

South Dakota's law says it neither permits nor prohibits soliciting business, apparently leaving that up to other S.D. laws to govern. Time does not permit research into what's allowed to foreign trust companies there.

How about this for a compromise: Change sec. 7 to say only "The activities of a foreign trust company in this state shall be conducted only in accordance with rules the department of commerce may promulgate." -and-
Statement of intent: Rules adopted by the department of commerce under sec. 7 may not allow foreign trust companies to establish branches or offices of any sort in Montana, or to solicit business in Montana unless reciprocating states within the ninth federal reserve district generally permit such solicitation."

223.12

CORPORATIONS

tion shall have executed and filed in the office of the commissioner of banking a written instrument appointing such commissioner in his name of office its true and lawful attorney upon whom all process may be served in any action or proceeding against such executor or trustee, affecting or relating to the estate represented or held by such executor or trustee, or the acts or defaults of such corporation in reference to such estate, with the same effect as if it existed in this state and had been lawfully served with process therein, and shall also have filed in the office of such commissioner a copy of its charter, articles of organization and all amendments thereto certified to by the secretary of state or other proper officer of said foreign state under the seal of office together with the post-office address of its principal office and shall further have complied with s. 223.02.

(2) Any trust company, incorporated under the laws of any other state, duly acting and qualified as executor or trustee under any foreign will, shall have the same rights and authority under such will as to real estate within this state which any natural person duly acting as such foreign executor or trustee may have under the laws of this state, without such foreign trust company being required to do any act qualifying it to do business within this state not required of a natural person acting as such foreign executor or trustee.

(3) No such foreign corporation, having authority to act as executor or trustee under the last will and testament of any person, shall establish or maintain directly or indirectly any branch office or agency in this state or shall in any way solicit directly or indirectly any business as executor or trustee therein. If any such foreign corporation violates this provision, such foreign corporation shall not thereafter be appointed or act as executor or trustee in this state.

(4) No such trust company shall be appointed as the executor or trustee under the last will and testament or any codicil thereto of a resident of this state until it shall comply with this section and with ss. 223.02 and 701.16.

(5) The provisions of this section are only intended to supersede any existing laws insofar as said laws may be inconsistent with the provisions of this section.

Historical Note

Source:

L.1919, c. 585.
St.1919, § 2024-77s.
L.1921, c. 424.
L.1923, c. 291, § 3.
St.1923, § 223.12.

L.1937, c. 284, § 3.
L.1941, c. 250.
L.1947, c. 411, § 11.
L.1969, c. 276, § 592, eff. Dec. 28, 1969.
L.1969, c. 283, § 22, eff. July 1, 1971.

NORTH DAKOTA

6-08-27. Resident place of business, branch office or agency not authorized — Acts prohibited. The provisions of sections 6-08-25 through 6-08-28 may not be construed to permit a bank or trust company, organized and doing business under the laws of any other state, territory, or district than the state of North Dakota, including a national bank doing

business in any other state, to establish in this state a place of business, branch office, or agency for the conduct of business as a fiduciary.

No bank or trust company organized and doing business under the laws of any state or territory of the United States of America, or of the District of Columbia, other than the state of North Dakota, or a national bank doing business in any other state, territory, or district, may act in a fiduciary capacity in this state, except pursuant to the provisions of sections 6-08-25 through 6-08-28.

Source: S.L. 1953, ch. 98, §§ 3, 4; R.C. 1943, 1957 Supp., § 6-0827.

Cross-References.

Estate administration, foreign personal representatives, see chs. 30.1-24, 30.1-25.

6-08-28. Penalty. Any bank or trust company violating any provisions of sections 6-08-25 through 6-08-28 is guilty of a class A misdemeanor and, upon conviction thereof, may, in the discretion of the court, be prohibited thereafter from serving in this state in any fiduciary capacity.

CONFIDENTIAL 17
DATE 2-18-93
HB 596

EXHIBIT 18
DATE 2-18-93
HB 422

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE
ROLL CALL VOTE

DATE 2-18-93 BILL NO. HB 422 NUMBER _____

MOTION: Rep Larson Moved to Reconsider
Action on HB 422 And take from the table.
Motion CARRIED 11-7

NAME	AYE	NO
REP. ALVIN ELLIS		✓
REP. DICK KNOX		✓
REP. NORM MILLS		✓
REP. JOE BARNETT		✓
REP. RAY BRANDEWIE	✓	
REP. JACK HERRON	✓	
REP. TIM DOWELL	✓	
REP. CARLEY TUSS	✓	
REP. STELLA JEAN HANSEN		✓
REP. BOB PAVLOVICH	✓	
REP. VICKI COCCHIARELLA	✓	
REP. FRITZ DAILY	✓	
REP. BOB BACHINI		✓
REP. DON LARSON	✓	
REP. BRUCE SIMON	✓	
REP. DOUG WAGNER	✓	
REP. SONNY HANSON, VICE CHAIRMAN		✓
REP. STEVE BENEDICT, CHAIRMAN	✓	
	11	7

PROPOSED "FINAL" DRAFT FOR HB 422:
WITH REP. LARSON'S PROPOSED AMENDMENT - 2-15

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING STANDARDS FOR ADOPTION OF RULES GOVERNING MOBILE HOME PARKS: AUTHORIZING THE CREATION OF MOBILE HOME PARK RESIDENTS ASSOCIATIONS."

SECTION 1. [DEFINITIONS-SAME IN ALL BILLS, NO CHANGES]
SECTION 2. MOBILE HOME PARKS -- PARK RULES

(1) A MOBILE HOME PARK OPERATOR MAY ADOPT A RULE CONCERNING THE RENTAL OCCUPANCY OF A MOBILE HOME SPACE AND THE USE OF COMMON AREAS AND FACILITIES IN ACCORDANCE WITH 70-24-311 AND THE FOLLOWING:

(A) ANY RULE THAT DOES NOT APPLY UNIFORMLY TO ALL MOBILE HOME PARK RESIDENTS OF A SIMILAR CLASS CREATES A REBUTTABLE PRESUMPTION, AS DEFINED IN 70-24-431, THAT THE RULE OR CHANGE IN RULE IS UNFAIR.

(B) THE RULE HAS BEEN APPROVED AS PROVIDED IN SUBSECTION (2);

(C) ALL RULES, INCLUDING NEW RULES, MUST BE WRITTEN AND GIVEN TO ALL MOBILE HOME PARK RESIDENTS WHO RESIDE IN A MOBILE HOME PARK AND TO ALL NEW RESIDENTS UPON ARRIVAL.

(2) EACH COMMON AREA FACILITY MUST BE OPEN OR AVAILABLE TO RESIDENTS AT ALL REASONABLE HOURS, AND THE HOURS OF A COMMON RECREATIONAL FACILITY MUST BE POSTED AT THE FACILITY.

SECTION 3. (1) THE MEMBERSHIP OF A RESIDENT ASSOCIATION MAY ELECT OFFICERS OF THE ASSOCIATION AT A MEETING AT WHICH A MAJORITY OF THE MEMBERS ARE PRESENT. ALL RESIDENTS MAY ATTEND MEETINGS. THE MOBILE HOME PARK OPERATOR AND/OR THE OPERATOR'S EMPLOYEES MAY BE PRESENT.

(2) A MOBILE HOME PARK OPERATOR MAY NOT HARASS OR THREATEN ANY RESIDENT ASSOCIATION OR ENGAGE IN UNFAIR OR DECEPTIVE CONDUCT TO INHIBIT OR INTERFERE WITH THE CREATION OR OPERATION OF AN ASSOCIATION.

~~(3)(A) THE MOBILE HOME PARK OPERATOR SHALL PERMIT MEETINGS BY A RESIDENT ASSOCIATION OR RESIDENTS RELATING TO MOBILE HOME LIVING OR SOCIAL OR EDUCATIONAL PURPOSES, INCLUDING FORUMS FOR OR SPEECHES BY PUBLIC OFFICIALS OR CANDIDATES FOR PUBLIC OFFICE.~~

SECTION 4. (1) IN A RENTAL AGREEMENT THE MOBILE HOME PARK OPERATOR IS CONSIDERED TO COVENANT AND WARRANT THAT THE SPACE AND ITS ASSOCIATED FACILITIES ARE HABITABLE UNDER OBLIGATION OF

74-24-406(?)

-END-

EXHIBIT 20
DATE 2-18-93
HB 422

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE
ROLL CALL VOTE

DATE 2-18-93 BILL NO. HB 422 NUMBER _____

MOTION: Rep Larson's Amendment
Motion to Adopt Amendment
CARRIED 18-0

NAME	AYE	NO
REP. ALVIN ELLIS	✓	
REP. DICK KNOX	✓	
REP. NORM MILLS	✓	
REP. JOE BARNETT	✓	
REP. RAY BRANDEWIE	✓	
REP. JACK HERRON	✓	
REP. TIM DOWELL	✓	
REP. CARLEY TUSS	✓	
REP. STELLA JEAN HANSEN	✓	
REP. BOB PAVLOVICH	✓	
REP. VICKI COCCHIARELLA	✓	
REP. FRITZ DAILY	✓	
REP. BOB BACHINI	✓	
REP. DON LARSON	✓	
REP. BRUCE SIMON	✓	
REP. DOUG WAGNER	✓	
REP. SONNY HANSON, VICE CHAIRMAN	✓	
REP. STEVE BENEDICT, CHAIRMAN	✓	
	18	0

EXHIBIT 21
DATE 2-18-93
HB 422

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE
ROLL CALL VOTE

DATE 2-18-93 BILL NO. HB 422 NUMBER _____

MOTION: Rep Larson Moved HB 422
DPA. Motion CARRIED 14-4

NAME	AYE	NO
REP. ALVIN ELLIS	✓	
REP. DICK KNOX	✓	
REP. NORM MILLS	✓	
REP. JOE BARNETT		✓
REP. RAY BRANDEWIE	✓	
REP. JACK HERRON	✓	
REP. TIM DOWELL	✓	
REP. CARLEY TUSS	✓	
REP. STELLA JEAN HANSEN	✓	
REP. BOB PAVLOVICH		✓
REP. VICKI COCCHIARELLA	✓	
REP. FRITZ DAILY	✓	
REP. BOB BACHINI		✓
REP. DON LARSON	✓	
REP. BRUCE SIMON	✓	
REP. DOUG WAGNER	✓	
REP. SONNY HANSON, VICE CHAIRMAN		✓
REP. STEVE BENEDICT, CHAIRMAN	✓	
	14	4

Amendments to HB 155

Page 2 Line 14: Delete all of Section 2

Page 3 Line 8: Delete "denturitry", Insert "Department"

Page 4 Line 3: Delete all of Section 4

Line 21: Delete all of Section 5

Page 6 Line 4: Delete

Line 9: Insert New Subsection "37-29-311(4): The department shall appoint an Advisory Committee, of which 2 of its members shall be denturists, to hear complaints and make recommendations."

EXHIBIT 22
DATE 2-18-93
HB 155

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE
ROLL CALL VOTE

DATE 2-18-93 BILL NO. HB 155 NUMBER _____

MOTION: Rep Pavlovich moved to reconsider
action on HB 155 and take from the
table. Motion Failed 7-11.

NAME	AYE	NO
REP. ALVIN ELLIS		✓
REP. DICK KNOX		✓
REP. NORM MILLS		✓
REP. JOE BARNETT		✓
REP. RAY BRANDEWIE		✓
REP. JACK HERRON	✓	
REP. TIM DOWELL	✓	
REP. CARLEY TUSS	✓	
REP. STELLA JEAN HANSEN	✓	
REP. BOB PAVLOVICH	✓	
REP. VICKI COCCHIARELLA	✓	
REP. FRITZ DAILY		✓
REP. BOB BACHINI		✓
REP. DON LARSON	✓	
REP. BRUCE SIMON		✓
REP. DOUG WAGNER		✓
REP. SONNY HANSON, VICE CHAIRMAN		✓
REP. STEVE BENEDICT, CHAIRMAN		✓
	7	11

EXHIBIT 24
DATE 2-18-93
HB 596

Amendments to House Bill No. 596
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 18, 1993

1. Page 1.

Following: line 9

Insert: "

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 7] authorizes the department of commerce to adopt rules regulating the conduct of business in Montana by foreign trust companies. It is intended that the rules allow a foreign trust company to establish branches or offices of any sort in Montana or to solicit business in Montana only if reciprocating states within the ninth federal reserve district generally permit such solicitation."

2. Page 4, line 24 through page 5, line 6.

Following: "may" on line 24, page 4

Strike: remainder of line 24 through "office" on page 5, line 6

Insert: "conduct business in Montana only in accordance with rules promulgated by the department of commerce"

Amendments to House Bill No. 422
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 18, 1993

1. Title, lines 6 through 8.
Strike: lines 6 and 7 in their entirety through "CIRCUMSTANCES;"
on line 8
2. Title, lines 9 through 11.
Following: ";" on line 9
Strike: remainder of line 9 through ";" on line 11
3. Title, line 11.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "70-24-103"
Insert: ", 70-24-311, AND 70-24-431"
4. Page 4, lines 12 and 13.
Strike: subsection (a) in its entirety
Renumber: subsequent subsections
5. Page 4, line line 15.
Strike: "a"
Insert: "A"
6. Page 4, line 18, through page 6, line 11.
Strike: ";" on line 18, page 4 through "court" on line 11, page 6

Insert: "(b) All rules must be written and must be given to each
mobile home park resident who resides in a mobile home park
and to all new residents of a mobile home park upon
arrival."
Renumber: subsequent subsection
7. Page 6, lines 15 and 16.
Strike: "-- harassment prohibited"
8. Page 6, lines 19 and 20.
Strike: line 19 in its entirety through "." on line 20
9. Page 6, line 21.
Strike: "but"
Insert: "and"
10. Page 6, lines 22 and 23.
Strike: "not be members and may not"
11. Page 6, line 23 through page 9, line 23.
Following: "meetings" on line 23, page 6

Insert: "."

Strike: the remainder of section 3 and section 4 in its entirety

Insert: "Section 4. Section 70-24-311, MCA, is amended to read:

"70-24-311. Landlord authorized to adopt rules. (1) A landlord may adopt a rule concerning the tenant's use and occupancy of the premises. A rule is enforceable against the tenant only if:

(a) its purpose is to promote the convenience, safety, or welfare of the occupants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(b) it is reasonably related to the purpose for which it is adopted;

(c) it applies to all occupants in the premises in a fair manner;

(d) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;

(e) it is not for the purpose of evading the obligations of the landlord; and

(f) the tenant has notice of it at the time he enters into the rental agreement or when it is adopted.

(2) As provided in subsection (1) and in conformance with the provisions of this chapter, the landlord of a mobile home park shall adopt written rules concerning the tenants' use and occupancy of the premises.

~~(2)~~(3) If a rule is adopted after a tenant enters into a rental agreement that works a substantial modification of his bargain, it is not valid until 7 days after notice to the tenant in the case of a week to week tenancy or 30 days' notice in the case of tenancies from month to month."

Section 5. Section 70-24-431, MCA, is amended to read:

"70-24-431. Retaliatory conduct by landlord prohibited. (1) Except as provided in this section, a landlord may not retaliate by increasing rent, decreasing services, or by bringing or threatening to bring an action for possession after the tenant:

(a) has complained of a violation applicable to the premises materially affecting health and safety to a governmental agency charged with responsibility for enforcement of a building or housing code;

(b) has complained to the landlord in writing of a violation under 70-24-303; or

(c) has organized or become a member of a tenant's union, mobile home park residents association, or similar organization.

(2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in 70-24-411 and has a defense in any retaliatory action against him for possession.

(3) In an action by or against the tenant, evidence of

a complaint within 6 months before the alleged act of retaliation creates a rebuttable presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. For purposes of this section, "rebuttable presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(4) Notwithstanding subsections (1), (2), and (3) of this section, a landlord may bring an action for possession if:

(a) the violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant, a member of his family, or other persons on the premises with his consent;

(b) the tenant is in default in rent; or

(c) compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit.

(5) The maintenance of an action under subsection (4) of this section does not release the landlord from liability under 70-24-405(2)."

EXHIBIT 25
DATE 2-18-93
HB 422

NOTICE TO STATE DIRECTORS:

While you are all aware of the Synar Amendment, §1926 of the Public Health Services Act, this notice is to ensure that you are fully aware of the provisions included in §1926 so that you may take whatever action necessary to be in full compliance upon application for your FY 1994 funds, or if your State legislature does not convene in FY 1993 or FY 1994, upon application for your FY 1995 funds. We expect to have the implementing Notice of Proposed Rulemaking (NPRM) issued in the very near future, but there are some legal requirements which must be met, irrespective of the NPRM requirements. It is these requirements that we want to highlight.

Of critical importance is having a law in effect which makes it unlawful to sell or distribute tobacco products to persons under the age of 18. Section 1926 indicates that States may only receive their FY 1994 Substance Abuse Prevention and Treatment Block Grant funds if they have the appropriate law in effect and our reading of the Act is that the State law must include several components. A copy of your State's law must be included as part of your FY 1994 application or, as indicated above, in some cases FY 1995.

Therefore, it is important that you examine your law carefully to ensure that it covers each aspect of §1926. That is:

- o both sales and distribution must be covered;
- o all tobacco products must be included; and
- o any manufacturer, retailer or distributor must be covered by the law.

Other major requirements are as follows.

- o First, enforcement efforts must be underway in most States in FY 1994, and in some, in FY 1995.
- o Second, since "random, unannounced inspections" are required to be conducted during the first applicable year. As indicated above, the first applicable fiscal year for most States is 1994.
- o Third, States are required to submit annual reports providing data on the "extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18." The first annual report which will describe the required inspections and their results will be included with the State's application in most cases in FY 1995 providing the results of the inspections during the preceding fiscal year.
- o Lastly, the States must report annually on the strategies

they have used as well as those they will be employing to enforce the State law.

If you have any questions, please contact Gale Held or Patrick Talmon at 301-443-7942.

Representative Steve Benedict
Page 2
March 5, 1993

EXHIBIT 27
DATE 2-18-93
HB 465

33-16-101 (2) - Purpose and Intent:

"It is the express intent of this chapter to permit and encourage competition between insurers on a sound financial basis, and nothing in this chapter is intended to give the commissioner power to fix and determine a rate level by classification or otherwise."

33-16-203 - Rates Filed:

"(1) Every insurer . . . shall file with the commissioner all rates intended for use within this state, together with supporting data sufficient to substantiate the filing"

The "intended for use" verbiage establishes Montana's "file and use" regulatory environment.

33-16-211 - Order prohibiting use of Rate or Rating System:

"If, after a hearing pursuant to 33-16-206, the commissioner finds that any rate, rating plan or rating system violates the provisions of this chapter applicable to it, he may issue an order to the insurer . . . specifying in what respects such violation exists and stating when, within a reasonable time, the further use of such rate or rating system by such insurer . . . in contracts of insurance made thereafter shall be prohibited."

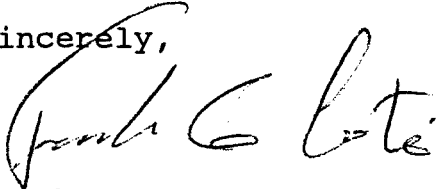
It is thus the insurer's burden to develop the rates it intends to use, and to file those rates (on a "file and use" basis) together with supporting data. After concluding that any filed rates do not meet the requirements of Montana law, the insurance commissioner has the authority to prohibit further use of the rates; but it would again be the insurer's burden to develop revised rates that meet Montana's requirements, and to file and support those revised rates.

As these statutes clarify, the Montana Insurance Department has no ratemaking authority, and no power to fix or set rates for medicare supplement insurance. Nothing in House Bill 465 increases the Insurance Department's authority beyond the statutes identified in this letter. The Montana Insurance Department cannot adopt rules which would conflict with the above statutes.

Representative Steve Benedict
Page 3
March 5, 1993

Please insert this letter into the records of the committee as the Insurance Department's response to Mr. Hopgood's letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frank G. Cote".

Frank G. Cote', LUTCF, CLU
Deputy Insurance Commissioner

FGC/rnn

cc: Tom K. Hopgood
Tanya Ask
Shannon Anderson

LUXAN & MURFITT

ATTORNEYS AT LAW

MONTANA CLUB BUILDING • 24 W. SIXTH AVE.

P. O. BOX 1144 • HELENA, MONTANA 59624

(406) 442-7450

TELECOPIER (406) 442-7361

EXHIBIT 28
DATE 2-18-93
HB 465
H. J. LUXAN (1918-1984)
WALTER S. MURFITT
MICHAEL J. MULRONEY
GARY L. DAVIS
DALE E. REAGOR
PATRICK E. MELBY
MICHAEL J. RIELEY
MICHAEL S. BECKER
TOM K. HOPGOOD
GREGORY A. VAN HORSEN

February 24, 1993

Representative Steve Benedict
Chairman
House Business and Industry Committee
State Capitol
Helena, MT 59620

RE: House Bill 465

Dear Representative Benedict:

On February 18, 1993, I appeared on behalf of the Health Insurance Association of America in support of HB 465, introduced by Representative Ryan and revising Medicare supplement insurance laws.

As you will remember, I questioned Section 3 on page 6 of the introduced bill allowing the Insurance Commissioner the authority to make rules to conform to federal statutes including, but not limited to, the review of premium increases. It is my understanding, as stated at the hearing, that this does not in any way confer upon the Insurance Commissioner any rate-making powers greater than those conferred by federal statute and regulation and did not give the Commissioner new authority to set rates in the field of Medicare supplement insurance. I stated that I did not feel that was the intention of the bill but that I felt it necessary to get it into the record for the purpose of legislative history. Upon questioning by Representative H. S. "Sonny" Hanson and Representative Don Larson, Deputy Insurance Commissioner Frank Cote stated that it is not the intent of this bill to confer additional rate-making authority upon the Commissioner.

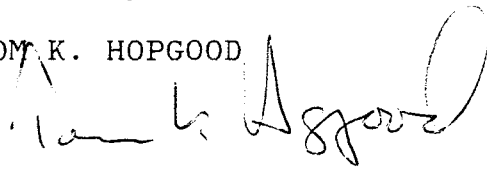
I would appreciate it if you would insert this letter into the records of the committee as a reflection of the legislative intent. Please note that I am transmitting a

Representative Steve Benedict
February 24, 1993
Page 2

copy of this letter to Mr. Cote of the Insurance Commissioner's office with the understanding that if the Commissioner's understanding of the situation varies from mine, Mr. Cote will respond.

Sincerely,

TOM K. HOPGOOD



for LUXAN & MURFITT

TKH/vjz

cc: Tanya Ask
Shannon Anderson
Frank Cote

STATE AUDITOR
STATE OF MONTANA

EXHIBIT 24
DATE 2-18-93
HB 465

Mark O'Keefe
STATE AUDITOR



COMMISSIONER OF INSURANCE
COMMISSIONER OF SECURITIES

March 5, 1993

Representative Steve Benedict
Chairman
House Business and Industry Committee
State Capitol
Helena, MT 59620

RE: House Bill 465

Dear Representative Benedict:

This letter is in response to a February 24, 1993, letter to you from Mr. Tom K. Hopgood of the law firm of Luxan & Murfitt, Helena, regarding House Bill 465. Mr. Hopgood raised concerns regarding whether the bill confers upon the Insurance Commissioner any ratemaking powers greater than those conferred by federal law, whether the bill provides the Insurance Commissioner the authority to set medicare supplement insurance rates, and whether the Insurance Department could adopt rules containing such additional powers or authority. The Montana Insurance Department does not perceive that any such new powers or authority are created by the bill. Our understanding of the provisions of the bill is consistent with Mr. Hopgood's.

The provisions of the bill must be taken in context with other sections of the Montana Insurance Code (Title 33 of the Montana Code Annotated). Specifically, Chapter 16 (Rates and Rating Organizations) provides in relevant part:

33-16-103 - Application:

"This chapter applies to all insurers and all kinds of insurance, except that nothing contained in this chapter applies to: . . .

(2) disability insurance, except medicare supplement insurance"

Pursuant to this section, the provisions of Chapter 16 of the Montana Insurance Code do apply to medicare supplement insurance rates.

Amendments to House Bill No. 548
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 18, 1993

1. Title, lines 10 and 11.
Strike: line 10 in its entirety and "property;" on line 11
2. Page 1, line 16.
Page 2, line 5.
Strike: "11"
Insert: "10"
3. Page 3, line 18.
Strike: "It is illegal to sell or distribute"
Insert: "Montana law prohibits the sale of"
4. Page 4, line 10.
Strike: "and"
Insert: "(3) places where alcoholic beverages, as defined in 16-1-106, are offered for sale; and"
- Renumber: subsequent subsection
5. Page 5, line 4.
Strike: "\$250"
Insert: "\$200"
6. Page 5, line 5.
Strike: "\$500"
Insert: "\$300"
7. Page 5, line 8.
Strike: "\$1,000"
Insert: "\$500"
8. Page 5, line 10.
Strike: "(a)"
9. Page 5, line 12.
Strike: "\$300"
Insert: "\$100"
10. Page 5, line 14.
Strike: "\$500"
Insert: "\$200"
11. Page 5, line 15.
Strike: "\$1,000"
Insert: "\$500"

12. Page 5, lines 16 through 20.
Strike: subsection (b) in its entirety

13. Page 6, line 2.
Strike: "(a)"

14. Page 6, line 5, through page 8, line 2.
Strike: line 5, page 6 through line 2, page 8 in their entirety
Re-number: subsequent sections

15. Page 8, line 5.
Strike: the first "as"
Insert: "no more"
Strike: the second "as"
Insert: "than"

16. Page 8, lines 5 and 6.
Strike: "9"
Insert: "8"

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Economics

COMMITTEE

BILL NO. HB465

DATE 2-18-93

SPONSOR(S) W. Ryan

PLEASE PRINT

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Frank Cote	S.A. Co.	✓	
Tanya Ark	Blue Cross + Blue Shield	✓	
PAUL SMILETANKA	MT. PODIATRIC MED ASSN		
LARRY ARKEY	MT ASSOC OF LIFE UNDERWRITERS	✓	
Tom Hopgood	Health Ins. Assoc. America	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

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Business & Economics

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BILL NO. HB 548

DATE 2-18-93

SPONSOR(S) B Strickland

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Robert W Meen	MT DEPT OF HEALTH	✓	
JEROME ANDERSON	TOBACCO INSTITUTE	✓	
Charles R. Brooke	MT RETAIL NEWS	✓	✗
SPENCER SARTORIUS	OFFICE OF PUB. INST.	✓	
EALL THOMAS	AMER LUNG ASSN OF MT.	+	
Fred Fisher	Board of Crime Control	X	
Harold Borna	DCHS / AD #17	X	
Bill Hiker	Dept of Revenue		
GENE PHILLIPS	SMOKELESS TOBACCO Council	X	
Kathy Seacat ^{2716 Tiger Road Helena}	Montana Congress of Parents, Students + Teachers	✓	
Paulette Kellman	MT Council Mat & Child Health	✓	
Bill Stevens	MT Food Dist Assn	✓	✗
Kathy McDouan	CDPM / mcmhc		
Patricia A. Crow	mcmch	✓	

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[Handwritten signatures and notes at the bottom of the page]

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Economics

COMMITTEE

BILL NO.

HB635

DATE 2-18-93

SPONSOR (S)

R. Fagg

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[illegible]

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BILL NO. AB4614 4607

BILL NO. AD 4614 460

DATE 2-18-93 SPONSOR(S) G. Russell

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