

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By CHAIRMAN STEVE BENEDICT, on March 9, 1993, at  
8:00 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 (X) (D)  
Rep. Doug Wagner (R)

Members Excused: REP. CARLEY TUSS

Members Absent: NONE

Staff Present: Susan Fox, Legislative Council  
Claudia Johnson, Committee Secretary

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

##### Committee Business Summary:

Hearing: SB 362, 386, 411 AND 51  
Executive Action: SB 362, 386, 411 AND 51

#### HEARING ON SB 386

##### Opening Statement by Sponsor:

SEN. WILLIAM WILSON, Senate District 19, Great Falls, said SB 386  
is an attempt to expedite proceedings involving actions for

possession in landlord/tenant agreements. He said prior to 1991, actions for possession brought into justice court were required to be answered within 10 days under the rules of procedure applicable to those courts. In 1990, changes were made which made the Montana Rules of Civil Procedure applicable to proceedings in city justice courts. The change doubled the period of time in which a defendant was allowed to answer a complaint of action for possession. He said in the context of eviction proceedings, time is important for a property manager or landlord to have the ability to remove a holdover tenant from the rental premises as quickly as possible due to damages that can occur. SB 386 will return the 10 day answer period for possession actions and result in an expedited possession proceeding.

Proponents' Testimony:

Greg Van Horssen, Income Property Managers Association (IPMA), and the Montana Landlords Association (MLA), said IPMA and MLA support SB 386. He said both of the organizations comprise 1,500 members and administer 53,000 rental properties. He said the two groups are dedicated to providing safe and, more importantly, affordable rental housing to Montana's renting population. In the context of eviction proceedings time is of the essence and is important for the property manager to have the ability to remove holdover tenants from the rental premises as quickly as possible. He hoped the people that testified in the Senate Business and Industry Committee were here to tell some of the things that happen when a landlord cannot evict a holdover tenant. He said SB 386 is a win-win situation. It allows landlords to efficiently operate their business and remove individuals who have terminated their rental agreement in an efficient manner and expedites the eviction process. He said in general, the longer a tenant stays in the rental property, the more damage occurs to the rental property. This increases the cost of business for the property manager. By reducing the period of time and returning the time period to 10 days to answer, the complaint in the unlawful holdover matter will reduce the cost of business. This savings will be passed along to the renters of Montana. He said the IPMA and the MLA strongly support SB 386 and urged the committee for a do pass recommendation.

Lance Clark, Montana Association of Realtors, wanted to be on record in support of SB 386.

Opponents' Testimony:

Melissa Case, said SB 386 is not the way to expedite the proceedings for wrongful removal. She said without the guidelines for reasons a tenant must be evicted there is potential for a wrongful eviction having occurred. By decreasing the time period, a person may be wrongfully evicted, and with the housing shortage situation, there could be real problems without guidelines in place.

Questions From Committee Members and Responses:

REP. LARSON asked Melissa Case if SB 245, the wrongful eviction notice bill, addresses her concerns? Ms. Case said it definitely did. She said SB 245 addresses just the mobile home people, but there hasn't been any legislation for good cause for all renters. REP. LARSON asked Ms. Case to identify the difference between SB 245 and this bill? Ms. Case said the outline for eviction in SB 245 has five specific rules for eviction when a mobile home is situated on rented land.

CHAIRMAN BENEDICT asked Melissa Case if she has read SB 362, and if it addresses her concerns? Ms. Case said they do have a concern with SB 362 and will stand in opposition to it.

Closing by Sponsor:

SEN. WILSON said all SB 362 will do is return the amount of time from the 20 days period back to 10 days.

HEARING ON SB 362Opening Statement by Sponsor:

SEN. DON BIANCHI, Senate District 39, Belgrade, said SB 362 is a part of the Landlord/Tenant Act. When a landlord has given the tenant a 20-day notice to leave and they do not, it goes to court. If it is appealed, it then goes to district court, and may take six months to a year to hear the case. When a landlord is trying to evict someone and the case is in court, the landlord cannot collect the rent for that period of time until the court case is solved. He gave an example of a case in Bozeman where an elderly man rented his home for the winter while he went south for six months. When he returned he could not get the tenant out even though they had a six month agreement. He had to take it to court and it took him six months before he could get back into his own home. SB 362 states that when the 20 day notice is up and the tenant wants to fight the eviction in court, the judge has 10 days to hear the case, and 5 additional days after the case is heard for the tenant to leave.

Proponents' Testimony:

Greg Van Horssen, Income Property Managers Association and Montana Landlords Association, said the organizations strongly support SB 362. He said it represents a significant streamlining of the eviction process.

Lance Clark, Montana Association of Realtors, said they concur with the Landlords Association remarks.

Opponents' Testimony:

Melissa Case, Montana People's Action, said SB 362 will add an undue burden on the courts. She said the time period may cause an undue eviction and the low income people may not be able to find legal counsel. She asked that current law be left as is and asked for a be not concurred in recommendation.

Questions From Committee Members and Responses:

REP. SIMON asked SEN. BIANCHI if this bill isn't setting a precedent for priority in the courts, what happens to the judges if they are too busy? SEN. BIANCHI said there isn't any penalty. There are hearing officers that hear these types of complaints.

Closing by Sponsor:

SEN. BIANCHI said this is a fairness issue. When the landlords want to evict someone who won't leave, they are in court for six months to a year. He urged the committee to vote for SB 362.

HEARING ON SB 411Opening Statement by Sponsor:

SEN. DON BIANCHI, Senate District 39, Belgrade, said SB 411 is an act requiring a real estate broker operating under a franchise agreement to disclose the trade number, if any, by which the office is known and will require the broker who is also the principal to disclose that fact in advertising concerning the property. He said the reason for the bill is on page 5, lines 3 to 11 where it states that a sales person may not advertise a piece of property unless there is a written listing.

Proponents' Testimony:

Don McAndrew, Realtor, Bozeman, said there are realtors who have listed properties when they do not have a written contract, and have sold properties that aren't in existence. He told of an experience where he had a person from Tennessee who called him and asked to see a certain piece of property. He asked the broker who had the property listed, for information to send to this person in Tennessee. The man flew out and they went to the property where the owner of the ranch informed him it was not for sale and never had been. SB 411 will help the realtors police their actions, and add a few words to their current law.

Lance Clark, Montana Association of Realtors, said SB 411 is a basic housekeeping bill, and protection of the consumer for real property. He said the new language in subsection 2, page 5, resolves the problem for realtors and the consumer. It will require that a signed listing agreement must occur between the seller of the properties and the broker before the property is advertised. EXHIBIT 1

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. BRANDEWIE asked Don McAndrew when there is a multiple listing service, is the listing broker the only person who can advertise the property? Mr. McAndrew said the listing broker would have to have an exclusive listing. He didn't mean for this to be exclusive only, but to include all listings. REP. BRANDEWIE asked what this bill would do for pocket-listings? Mr. McAndrew said it would prevent a realtor from publicly listing a pocket-listing in a real estate magazine.

Closing by Sponsor:

SEN. BIANCHI closed stating he had some concerns when drafting the bill regarding the multiple listing. In the case of the person who obtained the listing and signed the multiple listing form, this bill would not prevent that from happening. He pointed out this bill excludes a realtor from having to list their own property, i.e., they do not have to have a signed listing with themselves.

HEARING ON SB 51Opening Statement by Sponsor:

SEN. DON BIANCHI, Senate District 39, Belgrade, said SB 51 will grant a temporary gaming license when there is an exchange of owners. This is currently being done with the temporary liquor license, i.e., the establishment can sell liquor while they wait for the approval of the license. The granting of this provisional license is at the discretion of the Gambling Control Division, who does not have to issue the permit if they do not want to. He said a person cannot have a temporary gaming license without a liquor license, which takes about 30 days for the Department of Revenue to issue. There is an expiration date of 60 days for the temporary license, but it can be renewed if the Department of Justice has not sent the permanent license. He said the Department of Justice can revoke the temporary authority without any warning if, during investigation, there is some reason to revoke or finding a criminal record.

Proponents' Testimony:

REP. JERRY DRISCOLL, House District 92, Billings, stated his support for SB 51.

REP. DON LARSON, House District 65, Seeley Lake, said he supports SB 51.

REP. BOB PAVLOVICH, House District 70, Butte, is in support of SB 51.

Ernie Grasseschi, MTA, stated his support for SB 51, and urged the committee to vote for the temporary permit. He said it would solve everyone's problems between the businesses and the Department of Justice to have the temporary license.

Steve Arnezon, Missoula, said he is the owner/operator of a bar and restaurant in Missoula. He gave a synopsis of a buy/sell of his business and the length of time it took to receive the permit from the Department of Justice. It had taken 162 days for the department to issue the permit. He urged the committee to give SB 51 a be concurred in recommendation.

Larry Akey, Montana Coin Machine Operators Association, gave a list of bars and restaurants throughout Montana that have had problems in the completion of the permit process. He said these are not big businesses that can survive without this means of livelihood, it is a small business survival issue. SB 51 does two things: 1) the Department of Justice shall conduct a completeness review on an application within 10 days and notify the applicant of any deficiencies; and 2) SB 51 will give the Department of Justice the discretion to issue a temporary license if they so choose. He said all the above testimony has indicated that the licensing process can't even take place until the buy/sell and everything else is completed in the selling of a business. He said the coin operators are involved because they own the machines. If a place of business is shut down until the permit changes hands, there isn't any money to pay loans, employees, etc. He said it is a matter of economic survival. He said the people of Montana are partners in the coin operators business, because the operators pay 15 percent of the gross income that goes into the local government and state government for the purposes of operating the state and local governments. When the machines are shut down the state loses money also. He said there were three businesses in Livingston that had to shut down while the department processed the change of permits for the gaming machines for a cost to the state and local government of \$11,000. He said this bill is not asking anyone to reduce the level of investigations, only the granting a temporary license until the investigation is complete so these businesses can remain open. Mr. Akey asked the committee to give SB 51 a do pass recommendation.

Dennis Casey, Executive Director of the Gaming Industry Association, said the new division administrator has committed to improving the processing of applications. He said in the last two months he has seen the working relationship between the applicants and the gaming department improve dramatically. He said SB 51 is written as a tool needed by the department. The key language to this bill is "may" issue a temporary authority to the applicant.

**Mark Staples**, Montana Tavern Association, said the temporary permitting authority has been a problem for years, and was in place before the 1991 Legislature. When gambling was codified there was temporary authority for the first two years. That temporary authority was taken away because of a technical reading by the legislative auditor who said the department didn't have the authority to use it any longer. The department was using it at their own discretion, the same way as being requested in SB 51. He said the department was asked in the 1991 Legislature if they planned on getting rid of the temporary authority and was informed they were not. When the 1991 session was over, the council said there wasn't any authority. **Mr. Staples** distributed a fact sheet explaining the provisional licensing for gaming permits. **EXHIBIT 2**

#### Opponents' Testimony:

**Janet Jessup**, Department of Justice, said Attorney General Joe Mazurek, and herself have been working with this issue since Attorney General Mazurek came into office. She said many of the problems that were discussed today have already been taken care of. She distributed a fact sheet prepared by the department informing the committee what SB 51 will actually do. She said if a potential client is interested in buying a bar, they can apply for a license and start the process even if the sale doesn't go through. Improvements have been made within the administration and SB 51 is not needed. She said the department has never had temporary licensing. In 1989 the department issued provisional licenses for businesses to start up at that time. She said a full investigation of the businesses and the potential buyers will now be done faster and the granting of a temporary license is no longer needed. She said this is a business and not everyone should have a gambling license; it is not a right, but a privilege. She asked the committee for consideration in their attempt to allow the industry to make the changes. **EXHIBIT 3 & 4**

**Gloria Hermanson**, Don't Gamble with the Future Group, said she stands in full support of Ms. Jessup's testimony. It is a regulated industry, and the department should be allowed to do their job appropriately. She urged the committee to vote against SB 51.

#### Questions From Committee Members and Responses:

**REP. ELLIS** asked Janet Jessup if there wouldn't be a lot of duplication in the system if a potential buyer started the licensing process before the buy/sell took place? **Ms. Jessup** said when there are new owners purchasing a business there is a lot of confusion, and if the confusion can be cleared from the very beginning the process would go much faster. She said a potential buyer can contact the Gaming Division to gather the information needed to start the process. **REP. ELLIS** asked **Ms. Jessup** how the division makes the determination of who is to be processed first, and how will this bill interfere in the

department's right to make that judgement? **Ms. Jessup** said at this time, it is first come, first served.

**REP. BACHINI** asked **Janet Jessup** how many FTE are there in the Gaming Control Division? **Ms. Jessup** replied a total of 36 FTE.

**REP. BACHINI** asked how many liquor investigators are there in the department? **Ms. Jessup** said there are six investigators and two clerical people. **REP. BACHINI** asked why there isn't just one single license application? **Ms. Jessup** said about 10 percent of the businesses that make application for a liquor license do not have gaming machines.

**REP. BACHINI** asked **Rick Ask** what the difference is between the liquor investigators and the gaming investigators? **Mr. Ask** said one of the primary differences is the gambling license is not tied to the Professional and Occupational Licensing statutes. If someone is found with a criminal record they cannot deny that person a gambling license unless the conviction is a felony and related to the liquor business. A gambling license can be denied when there is only a felony.

**REP. ELLIS** asked **Janet Jessup** if she knew what the rejection rate is for the applications they receive in a year? **Ms. Jessup** said it is between two to five percent.

**REP. DAILY** asked **Janet Jessup** how many license transfers are there in a year? **Ms. Jessup** said they have a total of 24 that are pending at this time. She said approximately one-fourth of the total operator licenses turn over in a year, which is between 1,700 to 1,800 licenses.

**REP. DAILY** wanted to know how many of those licenses that turn over are just beer and wine license? **Mark Staples** said there are about 400 to 500 which are just beer and wine licenses. **REP. DAILY** asked if there are any beer and wine licenses available at this time or are they being limited like the all-beverage license? **Mr. Staples** said in parts of Montana they are at a premium but in other parts of the state they are a dime a dozen, i.e., Butte lost 60 percent of their population which has affected the quota system.

**REP. ELLIS** informed **Mark Staples** that he would offer a friendly amendment, to say "if anyone failed to give pertinent information that failure would end the process", and asked him if he agreed with the intention? **Mr. Staples** said he did not. The paper work involved is very difficult and no one can get away without making a mistake.

**Closing by Sponsor:**

**SEN. BIANCHI** closed stating SB 51 is not necessarily to make the process easier for the state, but to make it more acceptable for the businesses that bring in the money for the state. He urged a be concurred in recommendation for SB 51.



EXECUTIVE ACTION ON SB 386

Motion: REP. BRANDEWIE MOVED SB 386 BE CONCURRED IN.

Discussion: None

Motion/Vote: REP. BACHINI called the question. Voice vote was taken. Motion carried 16 - 2 with REPS. WAGNER AND COCCHIARELLA voting no.

Vote: SB 386 BE CONCURRED IN. Motion carried 16 - 2.

EXECUTIVE ACTION ON SB 362

Motion: REP. BRANDEWIE MOVED SB 362 BE CONCURRED IN.

Discussion: REP. SIMON said he is against the do pass motion. He felt the courts should be able set their own priorities for which cases are urgent.

REP. DOWELL said if this bill was a problem for the courts the judges would have testified. He said these are on-going cases and if it is taken care of in the courts, maybe something will be done.

Motion/Vote: REP. BRANDEWIE called the question. Voice vote was taken. Motion carried 16 - 2 with REPS. COCCHIARELLA AND SIMON voting no.

Vote: SB 362 BE CONCURRED IN. Motion carried 16 - 2.

EXECUTIVE ACTION ON SB 411

Motion: REP. BRANDEWIE MOVED SB 411 BE CONCURRED IN.

Discussion: REP. BRANDEWIE offered an amendment. On page 5, line 9, following "advertisement" insert "sub (b)". EXHIBIT 5

REP. BRANDEWIE called the question. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. BRANDEWIE MOVED SB 411 BE CONCURRED IN AS AMENDED. REP. BACHINI called the question. Voice vote was taken. Motion carried unanimously.

Vote: SB 411 BE CONCURRED IN AS AMENDED. Motion carried 18 - 0.

EXECUTIVE ACTION ON SB 51

Motion: REP. SIMON MOVED SB 51 BE CONCURRED IN.

Discussion: REP. BRANDEWIE moved to adopt an amendment on page 10, line 20, insert a new subsection (a), the applicant has ownership interest in a currently licensed gambling establishment or has previously held a gaming operators license. REP. BRANDEWIE said this amendment would take care of the bar owners, i.e., REP. PAVLOVICH, REP. LARSON and REP. DRISCOLL who had problems with the transfer of license to be granted a permit. REP. BRANDEWIE said the owners would have to disclose their financing.

REP. PAVLOVICH said he would vote against the amendment.

REP. LARSON said he was against the amendment. He appreciated what REP. BRANDEWIE was trying to do, but it would tie the department's hands because the financial condition of the prior gaming license can change. He said the department can do this already by rule.

REP. STELLA JEAN HANSEN said she agreed with REP. LARSON.

REP. BARNETT said he is opposed to the amendment for the same reasons REP. LARSON stated.

REP. BACHINI said he will vote against the amendment. He would like to see the bill go through without amendments. He said to let the department get going and get the process streamlined.

REP. BRANDEWIE called the question on the first amendment. Voice vote was taken. Motion failed 1 - 17 with REP. BRANDEWIE voting aye.

REP. BRANDEWIE moved to adopt a second amendment. On page 11, line 11, insert "an applicant is no longer eligible for a gaming operator's license if they misrepresent or omit information that is pertinent to the license".

The question was called on the second amendment. Voice vote was taken. Motion failed 3 - 15 with REPS. BRANDEWIE, KNOX, AND MILLS voting aye.

Motion/Vote: REP. BRANDEWIE MOVED SB 51 BE CONCURRED IN. The question was called. Voice vote was taken. Motion carried 12 - 6 with REPS. SIMON, HERRON, ELLIS, KNOX, BARNETT, AND BRANDEWIE voting no.

Vote: SB 51 BE CONCURRED IN. Motion carried 12 - 6.

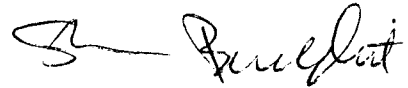
HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

March 9, 1993

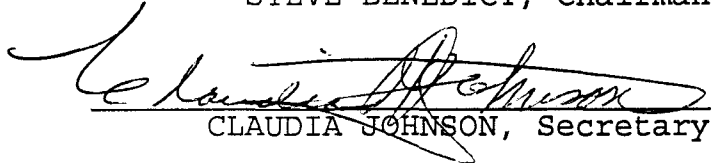
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ADJOURNMENT

Adjournment: 10:50 A.M.



STEVE BENEDICT, Chairman



CLAUDIA JOHNSON, Secretary

SB/cj

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

ROLL CALL

DATE

3-9-93

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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5  
3-9-93  
411

HOUSE STANDING COMMITTEE REPORT

March 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 51 (third reading copy -- blue) be concurred in.

Signed: Steve Benedict

Steve Benedict, Chair

Carried by: Rep. Sayles

Committee Vote:  
Yes 11, No 7.

531250SC.Hss

HOUSE STANDING COMMITTEE REPORT

5  
7-  
411  
March 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 386 (third reading copy - blue) be concurred in.

Signed: Steve Benedict  
Steve Benedict, Chair

Carried by: Rep. Hanson

Committee Vote:  
Yes 17, No 1.

531243SC.Hss


5  
2-7-93  
411

HOUSE STANDING COMMITTEE REPORT

March 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 411 (third reading copy - blue) be concurred in as amended.

Signed:   
Steve Benedict, Chair

And, that such amendments read:

Carried by: Rep. Brandewie

1. Page 5, line 3.

Following: "(2)"

Insert: "(a)"

2. Page 5, line 9.

Following: "advertisement."

Insert: "

(b) The provisions of subsection (2)(a) do not prevent a broker or salesperson from including information on properties listed by other brokers or salespersons who will cooperate with the selling broker or salesperson in materials dispensed to prospective customers.


(c)"

3. Page 5, line 10.

Following: "subsection"

Insert: "(2)"

Committee Vote:  
Yes 12, No 7.

531248SC.Hss 

Tuesday, March 9, 1993

Montana Association of REALTORS®

EXHIBIT 1

DATE 3-9-93

SB 411

TESTIMONY ON SB 411

Representative Benedict and members of the House Business and Economic Development Committee....

For the record, I am Lance Clark, Public Affairs Director with the Montana Association of REALTORS®. An organization representing approximately 2,500 REALTORS®.

I am here today in support of SB 411. The bill before you is about protection of the consumer; the buyer of real property. There have been cases of buyers traveling hundreds and thousands of miles to view property that has been advertised often for leads, but that has not been listed and moreso it isn't even for sale. Ladies and gentlemen of the committee the law needs to be clarified.

The new language in subsection 2 of Section 1 on page five of the bill resolves this very problem. A signed listing agreement must occur between the seller of the properties and the broker or salesperson before property is advertised.

With this testimony, I am certain individuals who have experienced this problem firsthand will attest to the problem and the resolve set forth in this bill.



**FACT SHEET IN SUPPORT OF  
SENATE BILL 51  
"ALLOWING PROVISIONAL LICENSING  
FOR GAMING"**

EXHIBIT 2  
DATE 3-9-93  
SB 51

1. SCORES OF BUSINESSES ARE BEING SHUT DOWN, SALES FALLEN THROUGH, AND TAXES ARE BEING LOST, BECAUSE OF NO PROVISIONAL LICENSING (SEE ATTACHED SHEET): THE DIVISION NOW TAKES ON AVERAGE, BETWEEN 77 AND 90 DAYS FROM APPLICATION TO APPROVE A GAMING LICENSE. DURING THAT TIME, THE OPERATION BEING TRANSFERRED CANNOT ALLOW GAMING.
2. THE DIVISION WON'T EVEN START INVESTIGATING TIL THE DEAL IS SOLIDIFIED: GAMBLING CONTROL DOESN'T START IT'S "90 DAYS" UNTIL ALL CONTRACTS, FINANCING, DISCLOSURES, ETC. ... ARE SUBMITTED, SO THE SELLER AND BUYER HAVE TO HOLD THE ALL-BUT-COMPLETED DEAL IN PLACE FOR 3 MONTHS, WAITING FOR THE DIVISION. CAN YOU HOLD YOUR BUSINESS DEALS THIS LONG?
3. PROVISIONAL LICENSING IS NOT NEW AND UNTRIED: PROVISIONAL LICENSING WAS ALLOWED FOR ALL LICENSEES IN THE FIRST TWO YEARS OF THE ADMINISTRATION OF THE GAMBLING CONTROL DIVISION. IT WAS ONLY REVOKED, BY RULE, BECAUSE OF A TECHNICAL READING BY THE LEGISLATIVE COUNCIL. THERE ALWAYS HAS BEEN, AND STILL IS, PROVISIONAL LICENSING FOR LIQUOR.
4. ALL BUT A FEW APPLICANTS ARE APPROVED EVENTUALLY: AN OVERWHELMINGLY HIGH PERCENTAGE (SOMEWHERE WELL OVER 95%) OF LICENSES APPLIED FOR ARE EVENTUALLY APPROVED (AS TESTIFIED TO BY GAMBLING CONTROL AT THE BILL'S HEARING). WITH THAT COMPLIANCE FACTOR IN MIND, WHY NOT ALLOW PROVISIONAL LICENSING?
5. THE DIVISION HAS AT LEAST 30 DAYS TO INVESTIGATE BEFORE CONSIDERING PROVISIONAL LICENSING: THIS BILL ALLOWS AMPLE TIME FOR THE DEPARTMENT TO MAKE SIGNIFICANT INVESTIGATIONS TO ASSURE THAT NO MAJOR PROBLEMS EXIST. PROVISIONAL LICENSING COULD NOT EVEN BE REQUESTED UNTIL AT LEAST 30 DAYS AFTER THE APPLICATION PROCESS WAS BEGUN BECAUSE THAT'S THE MINIMUM TIME IT TAKES TO GET TEMPORARY LIQUOR AUTHORITY, WHICH ONE NEEDS TO BE ABLE TO GET A GAMING OPERATOR'S LICENSE.
6. THE DIVISION DOES NOT HAVE TO GRANT PROVISIONAL LICENSING VIA THIS BILL: GRANT OF THE PROVISIONAL LICENSING AUTHORITY IS STILL DISCRETIONARY WITH THE GAMBLING CONTROL DIVISION.
7. THE DIVISION CAN REVOKE FOR ANY DISCREPANCY WITHOUT FEAR OF CHALLENGE: IN THIS BILL, AN APPLICANT FOR PROVISIONAL LICENSING GIVES THE DIVISION AN UNEQUIVOCAL RIGHT TO REVOKE PROVISIONAL LICENSING, WITHOUT NOTICE AND WITHOUT THE NECESSITY OF PROVIDING A HEARING.
8. PROVISIONAL LICENSE EXPIRES AUTOMATICALLY IN 60 DAYS: THERE IS AN AUTOMATIC EXPIRATION TO PROVISIONAL AUTHORITY 60 DAYS AFTER IT'S GRANTED.
9. ANY REAL THREAT OF LITIGATION HAS BEEN ELIMINATED: REMEMBER, THE APPLICANT KNOWINGLY GIVES UP HIS RIGHT TO HEARING, AND BESIDES, THE PROVISIONAL LICENSE EXPIRES AUTOMATICALLY. WHO'S GOING TO GO TO THE TROUBLE TO SUE TO PRESERVE SOMETHING THAT WILL EXPIRE SHORTLY ANYWAY?
10. THERE WILL BE "NO SHORT TERM ABUSES": REMEMBER, YOU HAVE TO HAVE ACQUIRED A LIQUOR LICENSE ALREADY ... THAT'S THE EXPENSIVE PART. NO ONE IS GOING TO BUY A LIQUOR LICENSE TO BE IN BUSINESS ONLY 60 DAYS OR LESS.
11. THERE HAVE BEEN TOO MANY HOLD-UPS FOR TOO LONG.. THIS WILL HELP THE MOST: BECAUSE OF ALL OF THE ABOVE BUILT-IN PROTECTIONS, THERE SHOULD BE NO RISKS INVOLVED FOR THE GAMBLING CONTROL DIVISION. MEANWHILE, NOT TO ALLOW PROVISIONAL AUTHORITY HAS PROVED EXTREMELY PREJUDICIAL TO OPERATORS WHO SEEK TO TRANSFER OR PURCHASE BUSINESSES, WHILE DEPRIVING THE STATE OF MONTANA OF SIGNIFICANT TAX REVENUES AT A TIME WHEN THEY ARE DESPERATELY NEEDED.

## EXAMPLES OF PROBLEMS FOR LACK OF PROVISIONAL LICENSING

**BORRIE'S - GREAT FALLS** - TOOK A YEAR AND A HALF TO CHANGE OPERATOR'S LICENSE FROM MAN AND WIFE TO MAN AND CHILDREN. ALL HAVE BEEN IN THE BUSINESS FOR AT LEAST 15 YEARS.

**REPRESENTATIVE PAVLOVICH - BUTTE** - TOOK 3 MONTHS TO CHANGE LICENSE WHEN HE SOLD HIS PLACE - TO HIS PARTNER OF 13 YEARS - ALL IT TOOK WAS BOB COMING OFF THE LICENSE!

**REPRESENTATIVE DRISCOLL - BILLINGS** - TOOK 2 MONTHS AND 2 TRIPS TO HELENA TO CHANGE LICENSE FROM LOCATIONS ONE BLOCK APART - NO PERSONNEL OR FINANCIAL CHANGES - EVENTUAL FIELD INVESTIGATION (AFTER REPEATED CALLS) TOOK 15 MINUTES.

**REPRESENTATIVE LARSON - SEELYE LAKE** - SOLD HIS PLACE, BUT BUYERS DEFAULTED; WHEN HE TOOK IT BACK, HE HAD TO BE REINVESTIGATED FROM SCRATCH AND WAS TOLD TO SHUT DOWN HIS MACHINES FOR 3 MONTHS; WHEN HE DIDN'T, WAS PUNISHED WITH CLOSURE IN JULY, HIS BUSIEST MONTH.

HERE ARE JUST A FEW PLACES WHERE APPROVAL TOOK OVER 3 MONTHS:

TETON TAVERN - DUTTON -	OVER 3 MONTHS
SUNDOWN INN - STANFORD -	"
POWER POLE BAR - POWER -	"
DRAKE LOUNGE - MILES CITY -	"
POWDER RIVER LANES - BROADUS -	"
MINER HOUSE INN - COLSTRIP -	"
CQ BAR - LAMBERT -	"
COHAGEN COUNTRY CLUB - COHAGEN -	"
BUFFALO JUMP - LIVINGSTON -	FOUR MONTHS
MAD HATTER SALOON - LIVINGSTON -	"
MURRAY HOTEL - LIVINGSTON -	FIVE MONTHS
POOR WILL'S BAR - TWIN BRIDGES -	"
WINSTON BAR - WINSTON -	TEN MONTHS

**THE SHUTDOWN OF THE THREE BUSINESSES IN LIVINGSTON, ALONE, BESIDES THEIR OWN SUBSTANTIAL LOSSES, COST \$11,700 IN TAXES TO STATE AND LOCAL GOVERNMENTS. MULTIPLY THAT STATEWIDE, IN A TIME WHEN WE'RE DESPERATELY SEEKING REVENUES.**

DATA COLLECTED BY THE MONTANA TAVERN ASSOCIATION

EXHIBIT 2  
DATE 3-9-93  
5651

SENATE BILL 51  
Fact Sheet

Prepared by Department of Justice  
March 1993

1. Senate Bill 51 allows authority to operate a gambling enterprise before a full investigation. Typically, problems exist not with a simple felony record check of the applicant but with the involvement of outside financial interests, and those take time to investigate.
2. This bill will increase, rather than reduce, bureaucratic review; it adds another level of agency action and will therefore hamper the Department's efforts to speed up the licensing process. The bill arbitrarily vaults applicants for temporary operating authority ahead of others waiting for final licenses. Although the intent of the bill appears to be to speed up transfers of existing businesses, temporary operating authority is not limited to transfers but could be sought by any applicant.
3. The bill may actually increase delay in the licensing process by: (1) requiring duplication of paperwork by the Department and (2) reducing incentive for applicants to provide information in a timely manner during the investigation process.
4. The ten-day completeness review required by this bill is unrealistic. Completeness review cannot be accomplished within such a short period of time if it includes a full financial analysis.
5. There will be additional costs associated with the process of granting temporary operating authority. The bill does not allow recovery of increased costs.
6. Although the bill says it is within the "discretion" of the Department of Justice to allow temporary operating authority, it does not set forth guidelines for denying or revoking such authority. Absence of such guidelines is likely to result in litigation. Although the bill says temporary authority will not be subject to contested case proceedings, it does not insulate the Department's decision from judicial review.
7. No other state with similar gambling activities allows the temporary authority that this bill would authorize.
8. The operation of a gambling business is a privilege, not a right. This is a regulated industry and there are important public safety reasons for the requirement that a complete investigation be performed prior to issuance of a license.

REEP, SPOON & GORDON, P.C.

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RICHARD A. REEP  
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JOHN R. GORDON  
KYLE D. CUNNINGHAM

March 1, 1993

EXHIBIT 4  
DATE 3-9-93  
SB 51

Mr. Joseph P. Mazurek  
Attorney General  
State of Montana  
Department of Justice  
Helena, Montana 59620

Re: Gambling Control Division

Dear Mr. Mazurek:

My office recently represented the purchaser of the Heidelberg and Red Baron Casino in Missoula, Montana. This was a lengthy, complicated and generally difficult transaction which required a simultaneous transfer and sale of another business. During the entire process, my office and my client was in close contact with Kathy Baertsch and John Flynn. Kathy and John were always prompt in responding to our calls and very helpful in rendering assistance.

The investigation was handled by John Risken and Wayne Capp. Because of time constraints on closing and intervening holidays, this investigation was rushed and I am sure resulted in extra time being put in by both Mr. Risken and Mr. Capp. We very much appreciate the efforts that were exerted by these two gentlemen in moving this matter along in a fashion which allowed us to make our closing deadline.

As we encountered more difficulties in concluding the transaction, Rick Ask became involved. Our last minute requests and queries were generally handled by Mr. Ask. Again, he was prompt, courteous and extremely helpful in bringing the matter to its negotiated conclusion. I am sure you get your share of complaints. The maze of regulations that must be followed to comply with the law in liquor and gambling is sometimes overwhelming. The purpose of this letter is to give credit where credit is due. Kathy Baertsch, John Flynn, John Risken, Wayne Capp and Rick Ask deserve a pat on the back and our sincere thanks for their efforts in getting this transaction closed.

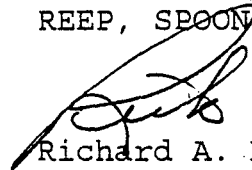
My clients, Grant and Ladd Lincoln, and I want you to know that your staff's efforts were appreciated. I think it is important that the boss hear from the public when things go right as well as when things go wrong.

Mr. Joseph P. Mazurek  
March 1, 1993  
Page 2

Thanks again.

Very truly yours,

REEP, SPOON & GORDON, P.C.



Richard A. Reep

RAR/mw

Amendments to Senate Bill No. 411  
Third Reading Copy

For the Committee on Business and Economic Development

Prepared by Susan B. Fox  
March 9, 1993

1. Page 5, line 3.

Following: "(2)"

Insert: "(a)"

2. Page 5, line 9.

Following: "advertisement."

Insert: "

(b) The provisions of subsection (2)(a) do not prevent a broker or salesperson from including information on properties listed by other brokers or salespersons who will cooperate with the selling broker or salesperson in materials dispensed to prospective customers.

(c)"

3. Page 5, line 10.

Following: "subsection"

Insert: "(2)"

HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

*Business & Ec.*

COMMITTEE

BILL NO.

*SB 51*

DATE *March 9, 1993* SPONSOR(S)

*D. Bianchi*

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Gloria Newman</i>	<i>Don't Gamble with the Future</i>		<i>X</i>
<i>STEVE ARNTZEN</i>	<i>GIA</i>	<i>X</i>	
<i>LOUIS LADRY</i>	<i>GIA</i>	<i>X</i>	
<i>LARRY AILEY</i>	<i>COIN OPERATORS ASSOC.</i>	<i>X</i>	
<i>Janet Gessner</i>	<i>Dept of Justice</i>		<i>X</i>
<i>Eric Grasseschi</i>	<i>Borrici MTA</i>	<i>X</i>	

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HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Business & Ec. COMMITTEE BILL NO. SB 411  
DATE March 9, 1993 SPONSOR(S) W. Bianchi

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Lance Clark	MT Assn Realtors	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Don McAndrew	Realtor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Business & E.C. COMMITTEE BILL NO. SB 362  
DATE March 9, 1993 SPONSOR(S) D. Bianchi  
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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>Greta Van Housen</u>	<u>IPMA/MLA</u>	<u>X</u>	
<u>Anne Clark</u>	<u>MT Assn Realtors</u>	<u>✓</u>	

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HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Business & Ec. COMMITTEE BILL NO. SB 386  
DATE March 9, 1993 SPONSOR(S) W. Wilson

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Greg Van Horssen	IPMA/MLA	x	
Lance Clark	MT Assn. Realtors	✓	

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.