

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By J.D. Lynch, Chair, on March 16, 1993, at 10:00 a.m.

ROLL CALL

Members Present:

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

Members Excused: None.

Members Absent: None.

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

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

Committee Business Summary:

Hearing: HB 538, HB 433, HB 349, HB 545
Executive Action: HB 538, HB 273

HEARING ON HB 538

Opening Statement by Sponsor:

Representative Mike Foster, House District 32 stated HB 538 would allow customers to choose a package of features which would include call waiting. He stated call waiting is not a competitive service, but a monopoly service. He stated the offering of call waiting to a customer also allows the customer to receive promotional discounts. He stated the Public Service Commission (PSC) would be able to review and approve each

company's promotional packages.

Proponents' Testimony:

Jim Hayhurst, Regulatory Director, U.S. West Communications, stated his support of HB 538. He provided the Committee with a brief synopsis of his stand on HB 538 (Exhibit #1).

Chuck Evilsizer, Attorney, Montana Public Service Commission, stated his support of HB 538.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

Representative Foster closed, asking Senator Lynch to carry HB 538 on the Senate floor, should it pass the Committee.

EXECUTIVE ACTION ON HB 538

Motion/Vote:

Senator Gage moved HB 538 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

HEARING ON HB 433

Opening Statement by Sponsor:

Representative Alvin Ellis, House District 84, stated the D'Armen's own a bar and race pigs. He stated the D'Armen's have used sports pools as trade stimulators. Representative Ellis stated sports pools are a device which allows people to wager on the outcome of the sporting event without knowing if the outcome will benefit the person. He stated the sports pool is a blind bet and there is no way of knowing the outcome. He read from MCA 23-4-301:

"No wager may be made on any animal except under the provisions of the law under the Board of Horseracing"

He stated the County Attorney has asked the D'Armen family to

close down their pig racing at "Bear Creek Downs". Representative Ellis quoted a Billings Gazette editorial: "What are regulators for if not to regulate, and in this case it means total prohibition." (Exhibit #2)

He stated HB 433 would allow for the racing of pigs, hamsters, and gerbils in incorporated cities and towns of less than 100 people, or in unincorporated communities. He stated HB 433 would also allow for the placing of wagers on those races. He provided the Committee with a copy of a petition in support of HB 433.

Proponents' Testimony:

Pete D'Armen, Owner/Operator Bear Creek Downs, stated he and his wife started pig racing in 1989. He said they needed to be licensed by the state, but were denied a license for the following reasons: jockey insurance, racing colors, list of officials, communications, equipment and jockey mount fees. He said the same letter stated the Board had no authority to regulate pig racing. He stated further research proved Bear Creek Downs could use a sports pool which would support the Bear Creek Scholarship Fund. He stated the scholarship fund is a non-profit organization which is registered with the state of Montana. He stated the organization pays all of the pig racing expenses and the remainder of the income is awarded to a Carbon County Student. Mr. D'Armen stated the betting is necessary to retain customers. He supplied the Committee with a set of articles and other publishings regarding the pig racing at Bear Creek Downs (Exhibit #3). He stated the money from Bear Creek Downs was supporting the students from Bear Creek the community through extra jobs created by the pig racing. Mr. D'Armen stated HB 433 would not lessen the control of the Board of Horseracing, but would reform the monopoly of the Board to control all racing of animals in the state. He stated if HB 433 were passed and sports pool betting was allowed on animal racing, there would be no great increase in the number of race tracks in the state. He stated the animals used in the racing are covered under the United States Department of Agriculture (USDA) which has to issue an animal welfare permit. He stated the USDA inspects his animals regularly. He stated the loss of jobs and scholarships to a community the size of Bear Creek would be devastating.

Ronald Yates, student, University of Montana (UM), stated he had received one of the scholarships from Bear Creek Downs. He stated that without the scholarship he would not have been able to attend UM.

Mike Schwartz, Montana State University, stated he works at the D'Armen's over summer breaks. He stated he has assisted in the training and racing of pigs and he felt the D'Armen's treat the animals fairly and humanely.

Opponents' Testimony:

Carolyn Ehnes, Don't Gamble With the Future (DGWF), stated HB 433 would be an expansion of gambling in Montana. She stated HB 433 could expand into dog racing and other animal races.

Gloria Hermanson, DGWF, stated HB 433 would allow for one more game under sports pools. She stated it is not good legislative policy to legislate for an individual.

Harley Warner, Montana Association of Churches, stated he opposed HB 433 and the expansion of gambling. He stated pigs are not meant to be raced; they are meant to be eaten.

Sam Murkett, Montana Board of Horse Racing, stated HB 433 was not clarifying anything. He stated HB 433 would limit the regulatory authority of the Board of Horseracing (BHR) to horses and mules. He stated HB 433 would transfer the authority to regulate other animals to the Department of Justice, Gambling Control Division. He stated the transfer would provide for no regulation of animal races because of lack of rules, expertise and funding. He stated the BHR is trying to uniformly require a form of animal races to be regulated as other animals. He stated the rules applied would be the rules of integrity which the wagering public demands. He noticed that pig racing has gained national attention because there is no other state which allows for pig racing. Mr. Murkett stated pig racing is gambling, and the races can be held without wagering on the outcome.

Mitzi Schwab, Department of Health and Environmental Services (DHES) read from prepared testimony in opposition to HB 433 (Exhibit #4).

Questions From Committee Members and Responses:

Senator Klampe asked Mr. D'Armen where the pig races occur. Mr. D'Armen stated there is an elevated deck and bleachers which overlook a race track. Senator Klampe asked Mr. D'Armen where the iguana races are held. Mr. D'Armen stated iguanas are raced in a glass contained track.

Senator Christiaens asked Representative Ellis why there was no fiscal note attached to HB 433. Representative Ellis stated there is no need for licensing of anyone to do sports pools in the state. He stated sports pools are for trade stimulation.

Senator Klampe asked Representative Ellis why HB 433 would restrict the racing only to establishments which serve alcoholic beverages. Representative Ellis stated the restriction was to limit the affect of HB 433.

Closing by Sponsor:

Representative Ellis closed on HB 433 stating the gambling and pig racing are incidental to Mr. D'Armen's business. He stated HB 433 was not an expansion of gambling, but it would allow for sports pools on the racing of pigs. He stated the statute for sports pools already exists and added any amendments proposed by the DHES were acceptable.

HEARING ON HB 349**Opening Statement by Sponsor:**

Representative William Ryan, House District 38 stated HB 349 would prevent an insurer to consider the off the job driving records of employees in respect to issuing, renewing, cancelling, or setting rates for the employers commercial motor vehicle insurance policy. He stated insurance companies insure the vehicles which are used during work hours and noted the companies are currently raising the insurance rates of the policies due to a personal driving infraction of an employee. He stated that any driving infraction occurred when the employee was off duty and in their own vehicle and was no reflection of how the person would operate the company owned vehicle. He gave an example of the apprentice program he runs and how he had lost 3 apprentices because of their personal driving records. He stated the apprentices were good employees and had no accidents or driving violations while on the job. He stated they had to be dismissed because of their previous driving records and the effect those records had on the insurance rates of the company.

Proponents' Testimony:

John Manzer, Teamsters Union, read from prepared testimony in support of HB 349 (Exhibit #5).

Stan Dupree, Journeyman/Lineman, Electrical Workers Union, 44, stated they had 11 employees with spotless on-the-job driving records laid off because of their personal driving records. He stated the employers were forced into laying off the employees because of the high insurance rates. He stated the insurance company should split the driving records between on-the-job and off-the-job records. He stated they are not asking to split every driving record of every employee in the work force, but only the driving records of offenders. He stated it would be easy to decipher between the work and personal vehicles because of the registration numbers and license plate numbers. He stated there are also dates and times listed on the citations. He stated the laying off of employees is also "black-listing" the employees. He stated all of the employees generally meet the criteria of the Montana Highway Patrol (MHP) to obtain and retain a Commercial Drivers License (CDL). He stated if the

employees can not obtain a CDL from the MHP, then they would not be hired or kept on.

Michael Mizenko, Montana Plumbers and Pipefitters, stated his support of HB 349.

Bill Lee, Montana Conference of Electrical Workers, stated his support of HB 349.

Darryl Holzer, Montana State AFL-CIO, stated his support of HB 349.

Dave Drennan, Montana Insurance Department, State Auditors Office, stated his support of HB 349.

Opponents' Testimony:

Greg VanHorssen, State Farm Insurance Company, stated his opposition to HB 349. He supplied the Committee with a copy of a statistical chart (Exhibit #6). He stated insurance companies are in the business of insuring risks. He said insurance companies look at statistics of probability when setting rates. Mr. VanHorssen referred to the chart and reviewed it with the Committee. He stated that once an individual has traffic violations, the individual represents an increased insurance risk. He stated the increase in rates also supplies an incentive to obey the traffic laws in the state. Mr. VanHorssen stated anyone holding a CDL knows they must obey the traffic laws of the state or be unemployable.

Ron Waterman, Farmers Insurance Agency, stated HB 349 was not a good bill. He stated the employer would make an employment decision based on the personal driving records of the employee. Mr. Waterman stated the basis for a first time hire would be an individuals personal driving records. He stated HB 349 would penalizes the insurance companies and the consumer will pay a 4% increase in their rates upon passage of HB 349 to absorb the risks.

Jacqueline Lenmark, American Insurance Agents, stated she opposed HB 349. She stated HB 349 would take away the most effective and predictable way insurance companies can insure an individual risk. She stated HB 349 would have a negative impact on insurance product availability. She stated HB 349 did not address the issue of a first time applicant for commercial vehicle insurance. She told the Committee HB 349 should have a fiscal note because of the separation of the driving records between work time and personal time.

Kendra Kawaguci, National Association of Independent Insurers, stated her opposition to HB 349.

Roger McGlenn, Independent Insurance Association of Montana stated he is allowed a vehicle for personal use which is supplied by his agency. He stated the operation of that vehicle on personal time should effect his driving record and the insurance rate on that vehicle.

Walter Stieg, Stieg and Associates Insurance stated his opposition to HB 349 and supplied testimony and notes for the Committee (Exhibit #7).

Questions From Committee Members and Responses:

Senator Koehnke asked Mr. Waterman how driving records were retrieved on drivers. Mr. Waterman stated the records were contained in a report called the Department of Motor Vehicles Report (DMVR).

Senator Koehnke asked Mr. Waterman why, under his business, he was never required to supply the insurance company with a record of his employees driving records. Mr. Waterman stated perhaps Senator Koehnke had asked his employees about their driving records before hiring them.

Senator Rea asked Mr. Waterman if there was an allowance of two offenses before a policy is cancelled. Mr. Waterman stated under commercial licenses if there are two citations for speeding or more serious offenses, then the commercial license is suspended for a year. He stated if a driver accumulated three or more serious offenses, their license may be suspended for life.

Senator Gage asked Mr. Campbell if there were other states which had laws similar to HB 349. Mr. Campbell stated HB 349 was drafted from language contained in other state's laws.

Senator Gage asked Representative Ryan if the employers would benefit from HB 349. He also asked why there were no proponents who were employers. Representative Ryan stated the employers were afraid of getting in trouble if they testified. He stated the Montana Motor Carriers had testified on behalf of HB 349 in the House.

Ben Havdahl, Montana Motor Carriers stated they had supported HB 349 in the House, but did not stand in support in the Senate because of mixed responses from his association. He stated he had to take a neutral position on HB 349.

Senator Rea asked Mr. Stieg if two minor violations would be the same as two serious violations on a commercial record. Mr. Stieg stated the violations had to be "moving violations" and the minor violations did not carry the same weight as the moving violations.

Senator Klampe asked Representative Ryan if there had been any

proposed amendments or compromises to HB 349. Representative Ryan stated there had been no compromises or amendments.

Senator Bruski-Maus asked Mr. Stieg if one person could raise the insurance rates, why a long-time safe driver could not lower the rates for a whole group. Mr. Stieg stated a long-time, safe driver can lower or equalize the rates. Senator Bruski-Maus stated there is a difference between a person driving 5 years and receiving a violation and a person driving 50 years and receiving a violation. Mr. Stieg stated there is no increase in rates for one ticket.

Senator Christiaens asked Representative Ryan if the DMVR's are required from employees prior to selection by the company. Representative Ryan stated some employers consider the DMVR's criteria for hiring. He stated the employer should have the right to use the DMVR for employment decisions and the employer should make the final decision as to whether they want to hire the person or not. Representative Ryan stated the insurance companies rates should not mandate whether a person should be hired or not.

Senator Christiaens asked Representative Ryan if employees are informed of what a bad driving record could mean. Representative Ryan stated employees are informed of the consequences of a bad driving records.

Senator Christiaens asked Mr. Drennan why he supported HB 349. Mr. Drennan stated there are two types of insurance; commercial and personal. He stated there should be two different risk groups for the separate insurance types and the two types should be rated on exposure and experience. He stated the two types are being used as the same type of risk groups.

Senator Christiaens asked Representative Ryan why there was no fiscal note attached to HB 349. Representative Ryan stated the separation of the driving offenses could be done on one DMVR with the addition of a license plate number to the offense. He stated doing so would simply need data input and there would require no additional expense.

Senator Gage asked Representative Ryan how the driving record would indicate if there was a commercial vehicle involved. Representative Ryan stated the addition of the license plate number would clarify which vehicle was being driven.

Closing by Sponsor:

Representative Ryan closed on HB 349, stating the separation of the driving records would be simple and would not cost the taxpayers anything. He stated HB 349 would keep people employed and allow the employers to have a choice in who they hire.

HEARING ON HB 545

Opening Statement by Sponsor:

Senator J.D. Lynch, SD 35, presented HB 545 for Representative Carly Tuss. He stated HB 545 was a clean-up bill and added he would let the proponents explain it.

Proponents' Testimony:

Mark O'Keefe, State Auditor, Insurance Commissioner, stated HB 545 was a "true" clean-up bill. He stated HB 545 would renumber the section and clean-up the language. He stated there was a request for an additional amendment which would strike section MCA 15-1-505. He stated MCA 15-1-505 has been ignored for at least 30 years and should be removed.

Jacqueline Lenmark, American Insurance Association, stated her support of HB 545.

Roger McGlenn, Independent Insurance Agents Association, stated his support of HB 545. He also stated Larry Akey, Montana Association of Life Underwriters would like to go on the record in support of HB 545.

Kendra Kawaguci, National Association of Independent Insurers, stated her support of HB 545.

Mike Murphy, Montana Department of Agriculture, stated his support of HB 545.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Gage asked Mr. Campbell if there was anything in HB 545 which would be considered more than clean-up. Mr. Campbell stated HB 545 was strictly clean-up of old codes and language.

Closing by Sponsor:

Senator Lynch closed on HB 545.

Announcement:

Senator Lynch asked the Committee for a moment of silence in memory of Gene Phillips from the National Association of

Independent Insurers. Mr. Phillips passed away from a heart attack on March 13, 1993.

EXECUTIVE ACTION ON HB 273

Motion/Vote:

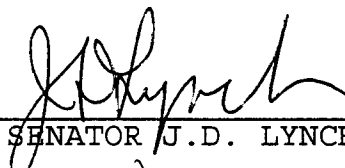
Senator Christiaens moved HB 273 BE AMENDED (591525SC.San). The motion CARRIED UNANIMOUSLY.

Motion/Vote:

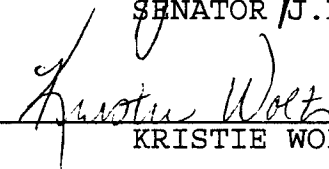
Senator Mesaros moved HB 273 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 11:45 a.m.



SENATOR J.D. LYNCH, Chair



KRISTIE WOLTER, Secretary

JDL/klw

ROLL CALL

SENATE COMMITTEE Business & Industry DATE 3/11/93

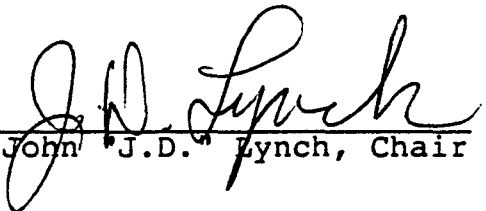
NAME	PRESENT	ABSENT	EXCUSED
Senator Lynch	✓		
Senator Christiaens	✓		
Senator Brenden	✓		
Senator Gage	✓		
Senator Hager			✓
Senator Harding	✓		
Senator Kennedy	✓		
Senator Klampe	✓		
Senator Koehnke	✓		
Senator Mesaros	✓		
Senator Rea	✓		
Senator Bruski-Maus	✓		
Senator Wilson	✓		

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 16, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 273 (first reading copy -- blue), respectfully report that House Bill No. 273 be amended as follows and as so amended be concurred in.

Signed: 
Senator John J.D. Lynch, Chair

That such amendments read:

1. Title, line 10.

Following: "REPLACEMENT,"

Insert: "GLASS"

Following: "OR"

Insert: "GLASS"

2. Title, line 13.

Following: "OR"

Insert: "GLASS"

3. Title, line 16.

Following: "BY A"

Insert: "GLASS"

4. Title, line 17.

Following: "DOING"

Insert: "GLASS"

5. Title, page 2, line 1.

Following: "COMMISSIONER"

Insert: "AND THE DEPARTMENT OF COMMERCE"

6. Page 2, line 6.

Following: "its"

Strike: "agents"

Insert: "producers"

7. Page 2, line 9.

Strike: "or recommend"


8. Page 2, line 16.

Following: "coercion,"

Insert: "or"

Following: "threat"

Strike: ", incentive, or inducement"


Amd. Coord.
TN Sec. of Senate


Senator Carrying Bill

591525SC.San

9. Page 3, line 13.

Strike: "SHOP"

Insert: "company"

10. Page 5, line 4.

Strike: "a company"

Insert: "any person"

11. Page 5, line 10.

Strike: "company"

Insert: "person"

12. Page 5, line 11.

Strike: "the company"

Insert: "that person"

13. Page 5, lines 18 through 23.

Strike: Subsection (2) in its entirety

ReNUMBER: subsequent subsection

14. Page 6, lines 4 and 5.

Strike: "Rebates AND INCENTIVES prohibited"

Insert: "Prohibited practices"

15. Page 6, following line 16.

Insert: "(3) A person may not manage, handle, or arrange automobile glass replacement or glass repair work for which the person retains a percentage of the claim or a set fee paid by the insurance company to the glass repair shop for an amount in excess of the amount paid to the glass repair shop."

16. Page 9, lines 5, 9, and 12.

Strike: "4"

Insert: "3"

17. Page 9, following line 12.

Insert: "(2) [Section 4] is intended to be codified as an integral part of Title 30, chapter 14, part 2, and the provisions of Title 30, chapter 14, part 2, apply to [section 4]."

ReNUMBER: subsequent subsection

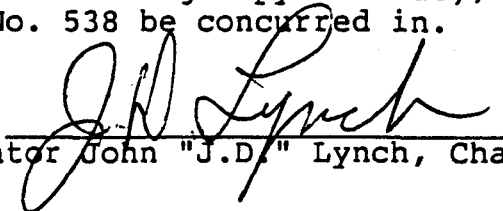
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 16, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House bill No. 538 (first reading copy -- blue), respectfully report that House bill No. 538 be concurred in.

Signed: 

Senator John "J.D." Lynch, Chair

Proposed Revision to Section 69-3-305 (4)

This section was added to the Montana Telephone Act during the 1991 Session in House Bill 610. The section was added to allow regulated telecommunications companies, such as U S WEST, to develop promotions for our products - a common business practice among telecommunications providers, as well as in other businesses. In the telecommunications industry, the Local Exchange Company, has a monopoly over certain parts of the network - local exchange access services and access services used by Carriers to reach their customers. Language was included in this section to limit the ability of the Local Exchange Company to promote a "package" which included basic access services with a competitive service. Our competitors would be unable to offer the same type of promotional offerings and therefore the offerings could be anticompetitive.

The result of this statute; however, has been that U S WEST has been unable to "promote" packages which include a very popular feature - Call Waiting.

Call Waiting is a non-basic, vertical feature. It is not necessary for access to the public switched network. It is however, not a competitive service. At this time, there are no alternative products available in the marketplace which perform the functions of Call Waiting. Therefore, Call Waiting is a MONOPOLY service.

Call Waiting is an attractive option for many customers. It allows them to receive important calls. It is very advantageous in homes with teenagers - the teen is alerted that there is another in-coming call - perhaps a long distance call. The customer can then make the decision about which call has priority. Many customers also find other custom calling features attractive - speed calling, three way calling and call forwarding. The packages allow customers to customize the feature packages which best meet their needs. The change in the statute will allow customers whose needs are better met with several features, rather than just Call Waiting, U S WEST has conducted several promotions since House Bill 610 opened this opportunity. On a short term basis, we have offered customers the opportunity to obtain services without the one-time charge for connection, we have offered money back guarantees to assure customer satisfaction with a service. These promotions are normal business practices - also offered by our competition and many other businesses. U S WEST has been precluded from offering any promotions of "packages" which include call waiting as a feature.

The statute change we are proposing insures that the intent of the 1991 statute is retained - that promotions will not be done which package a basic access line with a competitive offering. We understand and appreciate that such packages could disadvantage our competitors.

The minor change being proposed will allow U S WEST to better serve our customers - to offer them more choices of vertical services along with allowable discounts - waiver of one time charges and other Commission approved promotional opportunities. The Commission will review and approve each proposed promotion.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

DATE 3/16/93

BILL NO. HB 538

2-15-93
GAZETTE OPINION

2/15/93
**Pig races
off to a
bad start**

■ **Question:** Are porker parimutuels in this state's future?

A This story begins with Bob "Pitts" DeArmond, owner of the Bearcreek Saloon, and his decision to run porcine parimutuel races outside his establishment.

The story had good news and bad.

The good news was DeArmond's decision to run the races "outside" of his saloon.

The bad news is that the state got a whiff of the operation.

Regulators followed their noses to the Bearcreek Saloon in 1989. Now, as everyone knows, regulators are appointed to regulate. If they do not regulate, there is no reason to have regulators. So the regulators regulated, openly and in public.

Because of the parimutuel perspective of the perky porcine perambulations, the regulators opined that the pig races were not legal because they were not licensed by the state.

Of course, the races could not be licensed, because there were no licenses available for pig racing and no pig racing regulators to take on this odoriferous duty.

What a pretty pickle Pitts found himself in.

But Pitts is no pushover. His pretty porkers would prance their piece, or his name wasn't Pitts.

So Pitts stopped the betting on individual pigs. Instead, he pursued a poll. People picked numbers at random, the pigs ran, and the people with the winning pig's number were winners. Proceeds were contributed to a scholarship fund for high school seniors.

No, no, squealed the regulators. Not fair, said the officials. The pig racing had to be licensed by the Horse Racing Board.

Well, the Horse Racing Board washed its hands of the affair. The horse crowd saw a conspiracy afoot in the pig races. The races could be fixed. Pigs could be drugged to control the outcome. Greed would overcome the goodwill of high school scholarships if this potentially nefarious practice were permitted.

One spokesman for a horse owners' association said that putting one's possibilities in pursuit of a pig race purse was just another form of gambling that would benefit bar owners and few others. This, of course, is completely contrary to betting on horses which benefits well never mind.

Some said that legalization would cause an "explosion" of pig betting in bars.

No one, of course wants an "explosion" of pig betting. What a mess that would be.

Rep. Dave Brown, D-Butte, pointed out that it is foolish to worry about fixed pig racing since winning numbers are picked at random.

"There's no way to dope a race for a sports pool," Brown told one of the critics.

"If you don't understand that, there's no way to discuss this bill intelligently."

Amen.

So Pitts can't run his porcine races unless he gets a license. Of course, the Catch-22 is that there are no licenses. He could run his races if the Horse Racing Board would regulate pig racing which it won't because pigs can be drugged and unlike horse racing, pig racing doesn't benefit everyone.

Aren't you glad the regulators and the legislators got that cleared up? And now a question for Pitts: When's the next pig race?

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 2

DATE 3/16/93

BEARCREEK SALOON
Bob & Lynn DeArmond
PO Box 1083
Bearcreek, MT 59007
(406) 446-3481

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3
DATE 3/16/93
BILL NO. HB 433

My Wife and I own a saloon and restaurant in Bearcreek, Montana. We're off the beaten path on a 15 mile stretch of highway between major highways. In other words, you need a good reason to come to Bearcreek.

We started Pig Races in 1989 and our business rose dramatically. In the fall of '89 we were told that we were not operating the races legally and needed to be licensed by the state. We applied to the Board of Horse Racing and were denied for several reasons. None of which we were aware of, such as Jockey Insurance, or list of officials. Also racing colors, communications equipment, or jock mount fees which didn't apply to our races. At the top of this list was the statement: The Board does not have the authority to regulate pig races.

At this point we went through the gambling laws of the State. We discovered that a "Sports Pool" could be used to support our Bearcreek Scholarship Fund, a non-profit organization registered by the State of Montana - file D 069523-312438. This organization pays all pig racing expenses, the remainder of which is awarded to a student from Carbon County each spring. To date we have awarded two \$3,200.00 scholarships and now have \$4,000.00 to be awarded this coming May.

The past two winters we have also been racing Iguanas inside in a glass track. We have been paying 100% of the Sports Pool to the winner of each race, except in four instances. Once each for the Red Lodge Rodeo Association, Red Lodge Area Chamber of Commerce, Red Lodge Ski Jouring Association and the AAU Junior Wrestling Association, all of which are registered non-profit organizations. These organizations are constantly trying to raise funding for their various projects and events which benefit our area.

This winter we were planning on conducting Iguana Races for the Scholarship Fund also. In this manner we would have been able to award two separate scholarships this May.

Without Iguana Races this winter we had to let 3 employees go. Without Pig Races next summer we would be forced to lay off 9 weekend employees. Basically, we would have to cut back on all expenditures and assistance to our area because of the decline in business without these entertainment draws.

As you can see we have been covered by numerous national newspapers, Good Morning America twice, and the FUJI network of Japan. We've had visitors from all 50 states and over 25 foreign countries. We feel that we were an asset to our area as well as the entire state.

We were providing family entertainment for visitors to the Red Lodge area; Cody and Billings also. When someone would ask what they and their family could do in the evenings, they were more than likely told about either the Pig Races or the Iguana Races depending on the season. These attractions gave the whole family something to do together, instead of being cooped up in a motel room or finding baby-sitters for their kids.

Everyone seemed pleased that the money was going to support the Scholarship Fund, with some winners even donating their winnings back into the fund.

As entertaining as the races are, we could not continue without some form of wagering. That little bit of risk to win money is what keeps people interested throughout the evening. The longer they stay, the better our business does. That's our selfish reason for running these races.

By conducting races with a sports pool under statutes 23 - 5 - 501, 23 - 5 - 502 and 23 - 5 - 503, where the numbers are chosen at random after the card is filled, and there is no human interference, these races become totally fair to all bettors. There is absolutely no way to alter or arrange the outcome of these races.

Our races were conducted by selling 25 squares for \$2.00 each for a total of \$50.00 per race. The winner received \$25.00 and the remaining \$25.00 went into the Scholarship Fund. For the final race we sold each square for \$5.00, the maximum allowed by law. The winner of this race received \$100.00 with the remaining \$25.00 retained for the Fund.

Our proposal is to change the wording of 23 - 4 - 301 (page 870). In this section it states: "It is unlawful to make, or register a bet or wager on the result of a contest of speed, skill, or endurance of an animal." We would like to replace the phrase "an animal" to "Registered horses or mules." This change would bring this section in line with the Board of Horse Racing definitions on page 866. Item (6) gives this definition: "Race meet" means racing of registered horses or mules where the parimutuel system of wagering is used. This term includes simulcast racing.

This change does not lessen the control of the Board concerning the racing of horses or mules, the reason this Board was formed. It does remove the monopoly of controlling ALL forms of animal racing in this state. There are checks and controls already in place in the aforementioned statutes to regulate other forms of racing.

If this wording is changed and sports pool types of betting is allowed for animal racing, I don't see any great increase in race tracks in this state for several reasons.

First, it must be either a non-profit venture to support a charity or scholarship, or pay back the full amount wagered. Both methods would not allow any profit taking from the races, the latter would not even pay expenses. The operator is held accountable for all expenses by existing law and must maintain records to show either support for charity or total payback of wagers. Any variations of such a pool must have approval by the Gambling Control Division.

Secondly, these sports pools must be held at a location licensed to sell alcoholic beverages

only.

And last, any animals kept for this type of racing must be regulated by the U.S.D.A. This means that an Animal Welfare Permit is required and inspections are made regularly.

These controls are already in place under Sec. 23 - 5 - 501 - 3. We were running these races lawfully under the Gambling Control Division, but since the language is stronger under parimutuel betting statutes, we do not want parimutuel, just the wagering that is provided for now.

The loss of jobs and \$10,000 in scholarships are small numbers when compared to the horse racing industry, but in Bearcreek and Carbon County they are very important figures.

By making this change many small businesses may then gain added income for themselves and quite possibly similar scholarship opportunities or charitable endeavors. Competition may become a drawback for pig racing in Bearcreek but I find that easier to understand and deal with than the monopoly that currently exists. The equalization of these statutes will be more of an asset than a detriment to this state.

Your consideration of this proposal is greatly appreciated.

Thank you.

Fast pigs bring home town's bacon

Part of the reason Montana just lost half its congressional delegation is the thousands of voters who moved to Seattle. Part of the reason thousands go back to Montana is to bet on the pig races.

I'd give even odds that the pig races at Bearcreek, Mont., will draw more fans and bettors this summer than any half-dozen congressional campaign appearances in the Big Sky state.

"We get upwards of 500 folks every night of the weekend," said Pitts Bearcreek Saloon and official track steward at

the Bearcreek Downs pig-racing track out back. "The whole town's only got 35 people, and I'm the only business, so we had to think of something to bring people in." They come in droves for the weekly racing and Mexican food, billed locally as "Sazine & Dine."

Bearcreek's sort of nestled between Billings and nowhere — where the phones still ring with "clackety-clackety-clackety" instead of electronic tones — just above the Wyoming state line and Yellowstone National Park. Tourists have been known to drive to nearby Red Lodge for a huge T-bone steak dinner at the Grizzly Bar, then drive to Bearcreek for some authentic green chili, the evening pig races, and then back to their motels and camping areas.

We first learned of Bearcreek Downs' pig

races last week, when a rambling, gambling Seattle friend brought back a 10-race card listing some of DeArmond's current porcine entries, including:

"Nota Hot Dog, Justa Weiner, Ham and Organ, Soo City Soo, Boss Haug, Hamlet, Pig O War, Swiney River and Makin Bacon."

"Of course, that's just the name on their racing jerseys," explained DeArmond. "For \$100 a season, sponsors like the Chevrolet dealer or the IGA get their business logo and colors and any name they want on the pig's jersey. But some pigs race twice a night, under different colors."

A pig is a pig is a pig, but Bearcreek Downs pigs run toward Hampshires and Poland Chinas. "I tried some of those potbelly pigs last year, but it was real embarrassing; they were real friendly, and all they did was run around and wag their little tails at everybody."

The regular racers run hungry, toward a feed trough at the end of a 45-yard racing oval that comes complete with starting gates, bells and, of course, the pre-race trumpet. Betting starts at 7 p.m. and races start at 7:30 and run through about 9:45. And just like at Longacres, folks can sit inside (they can only seat 65 in the 90-year-old saloon) and watch the races on big screen TV.

Racing stock is purchased at about 6 weeks of age and is raced until just after Labor Day. They're usually sold to the advertisers. "Everyone always asks me if the losers go into the chili pot, but we wouldn't do that," DeArmond said.

Race betting started on a piggy-mutuel basis, with set odds, "but the horse-racing-commission people shut us down," DeAr-

mond explained. "That was back in about '89, so we formed a nonprofit corporation with a board of directors, and we accept \$2 pool bets, like on a football-betting board."

"We pay back 50 percent to the winner — which is better odds than the state lottery — and we take 25 percent for expenses and put the other 25 percent into a scholarship. Every year, the board awards a \$4,000 scholarship to a Montana youngster."

Pig racing has become so popular that DeArmond was asked to bring a string of pigs to Reno recently. "They wanted me to come back, but I'm way too busy here during the racing season." He's even listed a local horseshoer, Bill Greenough, as the Bearcreek Downs track farrier.

"Attendance is up this year; we've had people from 47 states and 16 foreign countries," DeArmond bragged. "We have pig-racing boxer shorts that are very popular with the girls, and also T-shirts and caps."

"Publicity's been good, too. We post the clippings on the wall so's folks can read 'em while they're waiting in line to use the bathrooms."

If you wait around too long, the seasons change and the racing moves indoors. "We've got a small glass track where we race iguanas during the ski season," DeArmond said. "And on off days, I take 'em around to the local schools for Show and Tell, along with my parrot. Most kids around here have never seen a parrot or an iguana."

Only fair. Most Seattle kids have never seen a pig race.

■ Jon Hahn is a staff columnist who writes three times a week in the P-I.



**Jon
Hahn**

Senate Business + Industry
3-16-93
Exhibit #3
#B-433

Saloon owners find state confused about pig racing

BY KAREN DAVIS
For the Gazette

HELENA — The Bear Creek Saloon folks in Red Lodge thought they had stumbled onto a business owner's dream. This particular one, however, could get fatally mired down in the whys-and-wherefores of Montana law.

Owners Bob and Lynn DeArmond are the people who brought pig and lizard racing to the fair town of Red Lodge.

The only problem is that it's illegal. Because their pigs aren't horses.

And in Montana, only horses (and mules) can race for money — unless it's a sport pool. Then the law says animals are OK.

But the state Justice Department says maybe it shouldn't say that (even though it does). So, the Gambling Division of Justice is

willing to defer to the Board of Horse Racing in the matter of pig racing, division administrator Bob Robinson told the board Wednesday.

In a hearing Wednesday afternoon before the Department of Commerce's Board of Horse Racing, the DeArmonds were told that Montana officials' hands were tied. The state could do nothing, chairman Steve Christianson said — short of new legislation — to bring their pigs and lizards out of legal limbo. They were told by both Commerce and Justice officials that their pigs and lizards are unequivocally illegal.

The DeArmonds' bar is well off the beaten path, and when the 1988 Yellowstone Park fires effectively cost them an entire season, they were desperate for a gimmick to refill their bar.

Hence the internationally renowned out-

door pig races (summertime) and iguana races (a winter sport). The pig races attract upwards of 500 people a night, with a "racing season" that ends Labor Day. Indoor iguana races attract 80 people. Lizard season was scheduled to start Nov. 15.

The Bear Creek Saloon has also attracted national network news and TV crews from Japan.

In 1990, the DeArmonds received a cease and desist order from the Carbon County attorney, telling them that racing animals in Montana had to be regulated by the Board of Horse Racing. They then applied to the board, which denied their application.

Among reasons listed — they hadn't included information on their jockeys or the colors of their racing silks. And the board didn't regulate pigs. To fit instead into the state statutes on sports pool betting, the

DeArmonds stopped allowing bettors to bet on specific animals. Instead, races were run like football pool — bettors picked numbered squares on a chart.

For two years, the pigs and lizards kept racing.

On Sept. 17 someone called to set up a pig race at the Lewis and Clark County Fairground. Told it was illegal, they asked why the Bear Creek Saloon was doing it. The DeArmonds were back before the board.

On the face of it, the law is the problem. One statute says only the board of Horse Racing regulates animal contests of speed and endurance. Another statute says sports pool betting covers "natural persons or animals."

What's really going on here? "We've taken a shellacking from the video (gambling) people," executive secretary Sam Murrill admitted in the hearing. "We used to be the only game in town. No more."

"We are also charged with protecting the horse racing industry. If word got out about these pig races, you can be that every bar in the state will have some kind of insect or animal crawling around the room or up the walls."

"And that will be more money taken away from horse racing."

An obviously frustrated Bob DeArmond responded after the hearing to the state's suggestion that taking out the one reference to animals in sports pool betting was the answer.

"Take it out? What does he mean? We're trying to find a way to do this. Find a way to keep our business. And all they can say is 'Maybe we should just take out the word "animal" from the sports pool law?'"

Bob DeArmond said they'd have to lay off three winter employees and nine summer workers.

Billings

RACES

CONTINUED FROM D1

many people ask how the pigs were trained. Using cattle prods or other force is hogwash, Pits DeArmand said, and totally unnecessary.

"It was pretty easy" to train the pigs, he said. "We put them in their starting pens, opened the gates, and had someone chase them through the course about three times. When they saw that the feed trough was at the end — with molasses on top — they learned real fast."

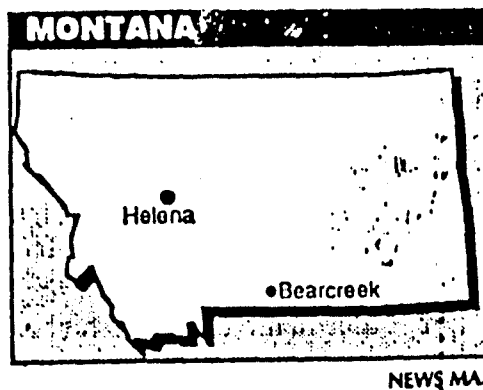
Bearcreek Downs runs 10 races a night, spaced 15 minutes apart. Each pig gets to run to the feed trough twice. Bets are \$2 a ticket, with a maximum bet of \$10 a race.

The "Pigfecta" (first, second, and third in order) pays the bettor \$10.

Inside the Bar Creek Saloon, bettors place their wagers at windows (formerly ensconced in the 1903 post office in nearby Washoe) worked by Lynn DeArmand and an assistant. When announcer Northcutt booms "The betting windows are closing, and the sowboys are in action," most patrons head for the balcony to watch the action live, rather than on TV inside.

"Wait a minute, I think we've got a pulled hamstring here," Pits DeArmand calls up to the crowd, setting people laughing. Over the public address system, Northcutt informs onlookers that "Numbers one, three and four are scratching vigorously. For you not familiar with pig racing, that's a good sign, though," he says.

As the sky darkens and the air begins to cool, lights go on around the track. Northcutt has just an-



'Wait a minute, I think we've got a pulled hamstring here,' Pits

DeArmand calls up to the crowd, setting people laughing.

nounced the winner: Spot, "the pigalousa," by eight lengths.

A few people begin to drift back inside the bar. One man calls down to Pits DeArmand that he has to leave for home. "Write when you find work," Pits DeArmand replies.

Most, however, remain outside, to watch trotters like Pig O' War, Knuckles, Hamlet, Raquel Belch, Smokehouse Sam, Chop Chop and Louie Luau make the dash to the trough.

As the last race of the evening begins, Northcutt's voice echoes off the hillsides near the bar. "The betting windows are closing, the sowboys are in action..."

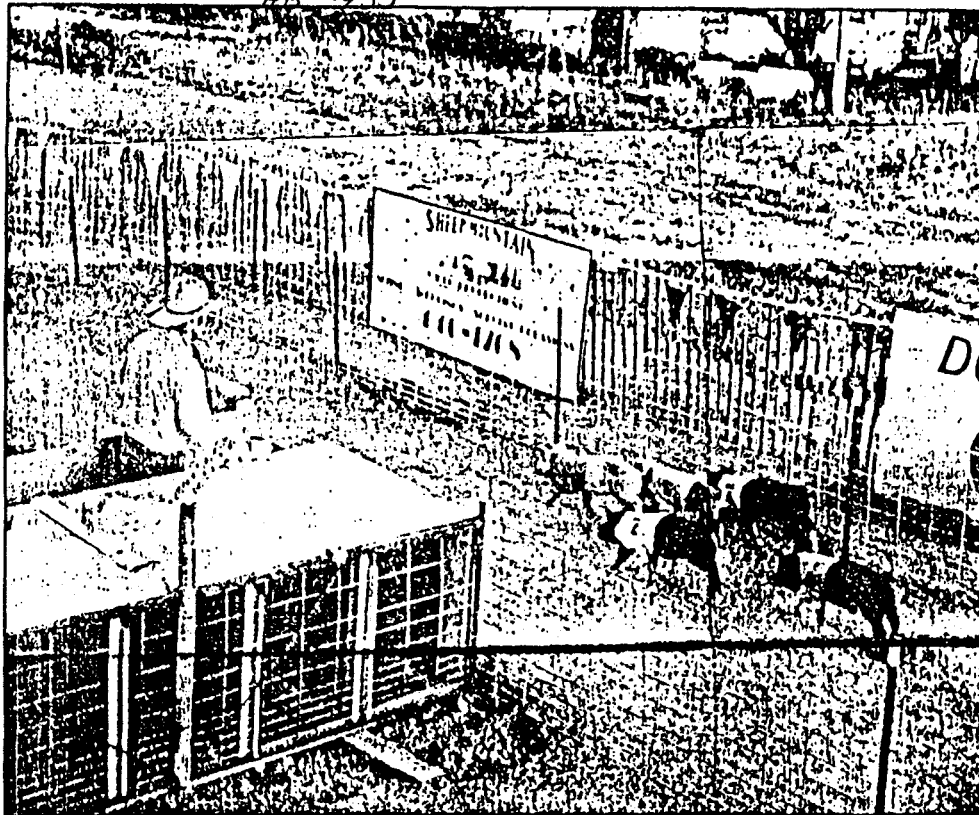


Fash Bash a jolly good show — D3

THE ANN ARBOR NEWS • TUESDAY, AUGUST 22, 1989

D1

Exhibit #3
3-16-93
HR-433



At the starting gate, Pits DeArmand watches the pigs move down the track.

A night at the races in which the racers are real porkers

EDITOR'S NOTE — Each summer for the last eight years, George Junne Jr., a 20-year resident of Ann Arbor, has accompanied University of Michigan Professor Phil Gingerich and a crew from the U-M Museum of Paleontology on digs in Wyoming. He has filed occasional reports with *The News* on the digs and on life in the small Western towns of northern Wyoming and southern Montana. Junne received his Ph.D. in education from the U-M in June 1988 and is now assistant to the director of the Center for Studies of Ethnicity and Race in America at the University of Colorado at Boulder. Nonetheless, this summer found him once again in Wyoming with Gingerich's team, and he filed this story on a summertime event just across the border. LJ

STORY AND PHOTOS
BY GEORGE JUNNE JR.
NEWS SPECIAL WRITER

BEARCREEK, Mont. — It's almost 7 p.m. at Bearcreek Downs, located about seven miles southeast of Red Lodge, Mont. The small crowd drifts slowly toward the veranda overlooking the track. Bill Northcutt, the announcer, has been counting down the time in one-minute intervals to the start, also reminding everyone, in his Georgian drawl, that the betting windows close one minute before the

race.

Inside the clubhouse, patrons are sitting at the bar or eating in the dining area, eyes glued to the television sets broadcasting the events outside. Some are eating quesadillas, taco salads, burritos or other Mexican foods. Those with betting slips are reviewing them.

Northcutt calls out two minutes before the start, and those who haven't placed bets hurry to the windows before they close. Tensions begin to build, but even so, the crowd seems calm, even cheerful.

Suddenly, the blare of a horn rings out, playing the short burst of post-time notes familiar to anyone who's ever attended a horse race or watched one on television.

A bell rings, the starting gate opens, and the field of five leaps forward. The air is filled with the roar of hundreds of ecstatic voices.

It's a fast track, and as the runners round the final turn, a spine-tightening stretch dual begins. The finish is so close, instant replay is used to determine winners. Inside, all eyes are on the television sets as Northcutt, who also doubles as camera operator, reviews the finish.

Over the public address system, the patrons learn that Ursula Handress has won over Swiney River . . . by a snort.

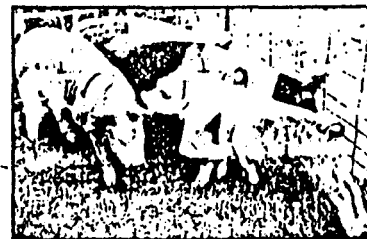
By a snort? You bet. This is the Bearcreek Saloon, and until Labor Day, each Saturday and Sunday evening, pig races

will be held at the custom-built track behind the bar, complete with taped crowd noise and post-time horns.

Lynn and Pits DeArmand, the owners of the bar in this tiny former mining town of under a hundred, host this outrageous event. A festive group of area farmers, ranchers and businesspeople, tourists going to or from nearby Yellowstone Park, geologists, motorcyclists, college students and retirees stop here to generally ham it up and rib each other with a string of pig jokes. "We wasted two days at Yellowstone," one tourist couple from Florida told Pits DeArmand. "We had more fun here than we did there."

Why pig races? Pits DeArmand said that the fires in Yellowstone and the surrounding areas last year hurt his business, leaving him wondering how he would draw customers this year. The couple, Lynn DeArmand said, went so far as to apply for a Small Business Administration disaster loan. "It cost us \$1,500 for the accountant to fill out the forms and we still don't know if we're going to get it," she said.

It was a friend of the DeArmands, Jim Slack, who suggested the pig races. "That idea kept bothering me, and I decided to give it a try," said Pits DeArmand, who has



Before the race: pigs in blankets.

also experimented with Badlands golf, a sport in which tin cans sunk into the desert replaced the conventional holes sunk in manicured greens. In fact, the bar will host a Badlands golf tournament Labor Day weekend, just as the pig races end.

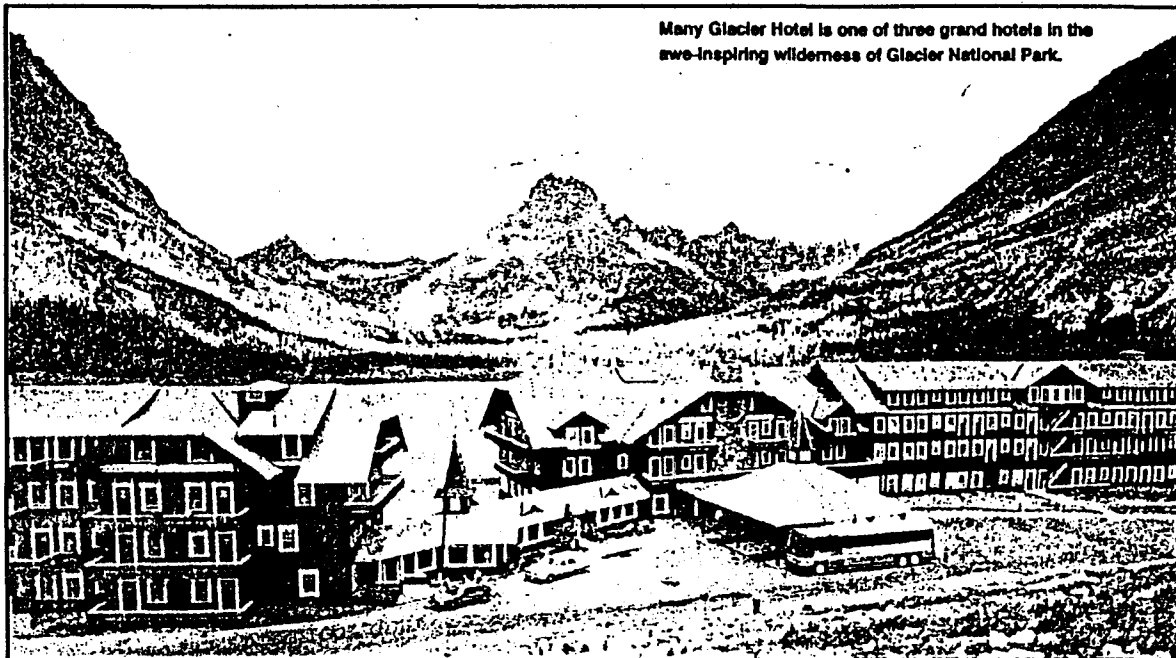
"Life has been interesting since I've met Pits," said Lynn DeArmand. "It's never a dull moment." The two have been married 7½ years.

Though business has been good, this is no pork barrel project. At the end of the summer, a percentage of the profits from the racing will be donated to the Red Lodge Area Chamber of Commerce to help the organization promote other events in the area.

While chewing the fat before race time,

See RACES, D2

GOVERNMENT



Many Glacier Hotel is one of three grand hotels in the awe-inspiring wilderness of Glacier National Park.

Ric Engstrom

Adam Z. Horvath
STAFF WRITER

NEVER MIND the big sky and the overpowering mountains; the best clue to the soul of Montana can be found inside a saloon in a former ghost town where, every half hour, a voice out back announces post time for the next pig race.

Unless it's winter. Then they race the iguanas.

That's what I found out my first night in Montana. On my first day I had already discovered the jaw-dropping views of this bewildering place begin right in the airport parking lot — on a cliff overlooking Billings. That the road into town leads past the grave of an Indian fighter best known for quoting Shakespeare. That the buffalo roam, all right — sometimes onto your plate for dinner.

Altogether my companion, Francie, and I spent nine days last month crossing a state three times the size of New York and — I'd be prepared to swear — much more than two time zones away.

It took at least the first week in Montana to get used to the idea of never getting used to anything — no matter how many times we came around a bend to a view of another, more perfect, part of the planet or descended from peaks of spectacular beauty into abundant valleys of the bizarre.

At the National Bison Range, herds of buffalo grazed peacefully 20 feet from our car among the rolling hills. Roadside stands near the entrance hawked Buffalo Burgers for \$5.99.

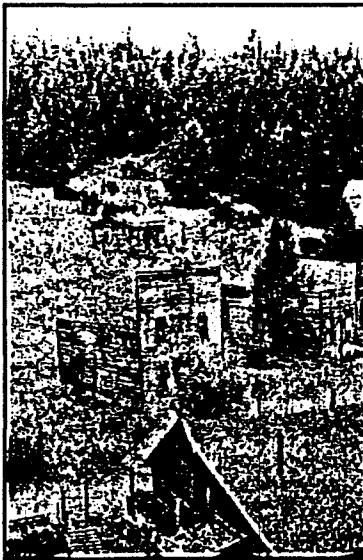
On the Going-to-the-Sun Highway in Glacier National Park, we drove along a cliffside and into a cloud. Then we hiked a mile and a half up a snowbound trail to play tag with horned mountain goats.

In the pretty town of Manhattan (pop. 1,000), we saw cows grazing at the corner of Lexington Avenue and Broadway, then ate a steak so fresh it had to have been one of them.

Near Missoula, we met the only man living in a frontier ghost town, whose father had run one of the 13 saloons.

The itinerary was ambitious, even without occasional mountain hailstorms and one's ears popping all the time from the changes in elevation. It took in two national parks and dozens of odd towns among the ever-twisting highways, from Billings' cliffside airport in the southeast to Glacier-Waterton Park in the northwest.

It was especially ambitious for someone who a



Adam Horvath

Garnet, near Missoula, is a ghost town that once had 13 saloons; today it has one resident.

tana on a map of the United States, who was permanently traumatized on the first day by a sign warning of rattlesnakes and who used high-powered binoculars to identify a far-off cow as a prairie dog.

Rattlesnakes weren't the only hazard. "Many visitors have been gored by buffalo," noted a leaflet that included a helpful illustration. Watch carefully for bears, warned countless signs and guides that gave some bewildering information on how to survive if you hit the jackpot. (Curl up in a ball for black bears, but don't for grizzlies — and, by the way, both types are the same color.)

As we drove among the mountains nudged between road and sky, the best part was we felt nearly alone to discover it all — in a place that loves to talk about itself but doesn't get a whole lot of crowds coming around to listen. "The Last Best Place," one book about Montana is called, and everyone there believes it.

The trip kicked off with a mountain highway drive to a 10,000-foot-high icy plateau known as the Top of the World; it ended with the high-

the-Sun, and in between were places called Hell-Roaring Gulch, Hell-Roaring Pass, and Hell-Roaring just about everything.

The mining town of Butte, in fact, describes itself in a historic plaque by declaring: "She was a bold, unashamed, rootin', tootin', hell-roarin' camp in days gone by, and still drinks her liquor straight." This is the same city that erected a 90-foot-tall statue of the Madonna on the Continental Divide, her arms stretched toward the rootin', tootin' population.

But our first stop was wagering on the pigs in the Bearcreek Saloon, a converted turn-of-the-century post office that has singlehandedly revived a former ghost town by bringing in the tourist trade — from Billings, that is.

Bearcreek (and in fact, the whole state) is the kind of place where just being from New York City is a conversation starter, and our conversation with the pig-caller went out over the loud speaker throughout the bar.

Meanwhile, pig handlers readied the pigs for their 10-second dash on a track graced with more billboards than a baseball stadium. The iguanas were resting till winter in a tank stuffed with foliage and labeled "Iguana Beach."

Saloon owner Pitts DeArmond wanted to know whether his visitors thought pig racing would go over pretty well in New York. Eager to please, we told him it could replace human Veltro jumping in a trendy bar on Amsterdam Avenue. "Aw, I was doing human Veltro nine months ago," he said. "That's old."

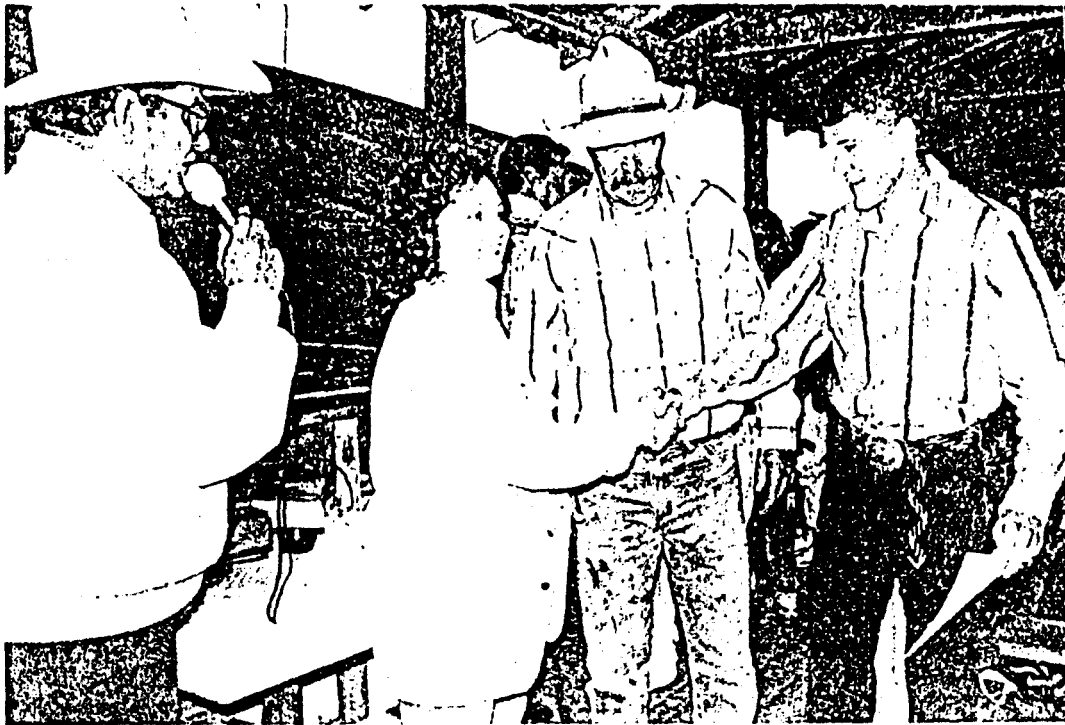
To top that off, he turned on a karaoke machine after the last pig race, leading things off with his own version of Elvis Presley's "In the Ghetto," sounding like Sesame Street's Ernie with a western accent.

We were in the middle of noting that we'd spent only \$13 on some fine Mexican food and beers but lost another \$14 on the pigs when a Pabst distributor from Billings named Lance tapped me on the shoulder and mentioned he had heard we were from New York. While he told us about grizzlies and we told him about Broadway theaters, someone's children sang along with Pat Benatar, and then a cowboy got up to try his hand at

Please turn



Yates receives scholarship funds from pig races



BEAR CREEK—A Luther student was selected from thirteen vying for the Bearcreek Pig Racing Scholarship.

R.J. Yates, a Red Lodge High School graduate who plans to go to the University of Montana in Missoula, was awarded the \$3,200 scholarship at a cele-

bration at the Bearcreek Saloon Saturday, May 23. Bar owner Pits DeArmond, his wife Lynn, and pig race announcer Bill Northcutt made the presentation before a full house.

The scholarship is funded by funds from pig races held at the saloon throughout the summer.

Expenses are paid, then the rest of the money goes into the scholarship. Yates will get \$400 per semester.

Criteria for the scholarship include plans to attend a Montana school and membership in Future Farmers of America, or 4H.

The pig race scholarship board of directors makes the final decision. Yates' application was outstanding, as are his grades and achievements in both FFA and 4H, according to Lynn.

Pits reported that the recipient, upon receiving the award, said, "Thank you."



Show and touch

photo by BRUCE MCCORM

Helena School third graders enjoy a presentation about Kelsi Moore, Tanya Bales, Breanne Johnston, Wesley Hanso

LEAPIN' LIZARDS!

Lizard racing set at Bearcreek bar

By DAN BURKHART
Gazette Beartooth Bureau

BEARCREEK — "Lizard Taylor," "Lizzie Borden," and "Lounge Lizard" will scamper out of the starting gates Friday, heralding yet another wacky new era of games at the Bearcreek Saloon.

For owners Bob and Lynn DeArmond, the racing of lizards — imported iguanas — is meant to be strange. It's a natural follow-up to pig racing, pasture pool and the "big bison drop" that they've promoted in the past to liven up entertainment at the 86-year-old saloon and restaurant in this tiny Carbon County town.

"When you've got a town with only 60 residents, you have to find other ways to draw a crowd," Bob, better known as "Pits", said.

The DeArmonds bought the Bearcreek bar eight years ago. With oil drilling sluggish in Wyoming, he decided it was time for a new venture. His wife, who worked for a bank, agreed. They crossed the state line and settled in Bearcreek, one of Montana's smallest incorporated towns. Pits became a saloon keeper, a town councilman and the chief tourism promoter.

During the summers, pig racing has been the bar's main attraction. On the last night the porkers ran this summer, the restaurant served up 237 dinners. Almost 500 people converged on the town for the finals at "Bearcreek Downs," a racetrack behind the bar. The guest book logged visitors from 20 foreign countries and all 50 states. Notoriety came from coverage by "Good Morning, America," and travel columns in newspapers across the United States.

"We even had a group from Thailand who diverted their trip through Yellowstone Park after catching it on satellite TV," Lynn said.

"And now we have some guy who owns bars in Canada flying in to look over the operation," Pits said. "I don't know how many trade secrets I want to give away, but it's pretty hard to hide it. It'd be pretty hard to franchise pig and lizard racing."

The pig racing also got the attention of the state racing board, provoking an investigation into the pari-mutuel gambling at the bar.

"That was a farce. We tried to license it and were told we could apply, but we'd never get the



Gazette photos by Mike Sprague

Bob "Pits" DeArmond, at top, owner of his 20 racing iguanas as he readies for the Bearcreek Saloon, poses with two of the opening of "Lizard Lanes" Friday.

“When you've got a town with only 60 residents, you have to find other ways to draw a crowd.”

— Bob "Pits" DeArmond
Bearcreek Saloon proprietor

license. Then they tried to shut us down. They even tried to go after our bar license," he said.

The inquiry into the pig racing was settled when the DeArmonds changed to a sports betting pool and set up a non-profit scholarship fund. The scholarship money from pig racing is already up to \$3,000. The proceeds will be awarded to a Carbon County student who attends a state university after high school graduation.

"Heck, with \$2 bets where the maximum pay-off was \$3 for a win ticket, we weren't exactly competing with horse racing," DeArmond scoffed. "On top of it all, there was even concern for jockey insurance. Shoot, the pigs don't have no jockeys."

DeArmond also received some attention when the pigs, after a successful season racing, were paid off by being sold for barbecues.

Some bar patrons moaned, learning that "Raquel Belch," "Jimmy Dean," and "Hamlet" became pork chops and bacon.

"Whadda' way to find out the season," Pits said.

The same fate probably won't happen to the iguanas that Pits bought for the winter indoor racing season.

"It will be at least three years before they're full grown. Then, I guess, for some people they're a delicacy and they also use the hides. But, for now they're just going to be lizard thoroughbreds," he said.

DeArmond converted his bar to a racing parlor several years ago to accommodate his promotions. The betting windows came from the old Washoe post-office. The lizard lanes will sit atop a stage semi-circled by a former church altar. Video cameras will train on the races, offering wire-to-wire replays.

"The only problem I had was getting the dang things to run," he said with a laugh. "I finally figured it out, but that's a trade secret."

He also had to design a special race track, actually separate lanes built atop one another, stretching 16 feet from gate to tape. The lanes will run slightly uphill since that's the way the reptiles prefer running.

The iguanas — all 20 of them — have thoroughbred accommodations between races. DeArmond built a carpeted room, equipped with sizzle rocks, plants and shrubs, ventilation, timer lights, and an aquarium. A Plexiglass window allows viewing of the long-tailed, neon green reptiles as they cavort in their temperature-controlled quarters.

"Those buggers swim darn near as fast as they run," he said.

Sanitation is scarcely a problem. The lizards eat little, mostly broccoli and cantelope, and two 25-year-old hermit crabs are the sanitation engineers, feasting on the minuscule lizard droppings.

Eventually, new accommodations, and a new track will be needed. Mature iguanas average 3 to 5 feet in length. The lizards now are only about 20 inch long.

Lizard Lanes will open this Friday, with races held every weekend during the winter.

23-5-426

PARKS, RECREATION,
SPORTS, AND GAMBLING

906

ment shall refund an overpayment or charge and collect an amount sufficient to reimburse the department for underpayment of actual costs.

(3) Upon completion of the examination, the department may approve, disapprove, or place a condition upon use of the equipment before it is made available for use in conducting live bingo or keno games.

History: En. Sec. 12, Ch. 647, L. 1991.

Compiler's Comments

Effective Date: Section 58(2), Ch. 647, L. 1991, provided that this section is effective July 1, 1991.

23-5-426. Electronic live bingo and keno equipment specifications — rules. The department shall adopt rules describing electronic live bingo and keno equipment that may be approved under 23-5-425. At a minimum, the rules must provide that the equipment use a random selection process to determine the outcome of each game.

History: En. Sec. 13, Ch. 647, L. 1991.

Compiler's Comments

Effective Date: Section 58(2), Ch. 647, L. 1991, provided that this section is effective July 1, 1991.

23-5-427 through 23-5-430 reserved.

23-5-431. Criminal penalty. A person who purposely or knowingly violates or who procures, aids, or abets in a violation of this part or any ordinance, resolution, or rule adopted pursuant to this part is guilty of a misdemeanor punishable pursuant to 23-5-161.

History: En. 62-723 by Sec. 9, Ch. 294, L. 1974; R.C.M. 1947, 62-723; amd. Sec. 43, Ch. 642, L. 1989.

Part 5
Sports Pools

23-5-501. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Sports pool" means a gambling activity, other than an activity governed under chapter 4 or chapter 5, part 2, of this title, in which a person wagers money for each chance to win money or other items of value based on the outcome of a sports event or series of sports events wherein the competitors in the sports event or series of sports events are natural persons or animals.

(2) "Sports tab" means a folded or banded ticket with a face covered to conceal a combination of two numbers, with each number ranging from zero through nine.

(3) "Sports tab game" means a gambling enterprise conducted on a card to which 100 sports tabs are attached that have 100 different combinations for which consideration in money is paid by the person purchasing each tab. A person may purchase a sports tab from the card for the chance to win money or other items of value on a sports event as provided in 23-5-503.

History: En. 62-727 by Sec. 1, Ch. 290, L. 1974; R.C.M. 1947, 62-727(part); amd. Sec. 1, Ch. 22, L. 1989; amd. Sec. 43, Ch. 647, L. 1991.

Compiler's Comments

1991 Amendment: Deleted definition of nonprofit organization that read: "Nonprofit organization" means a charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, or service organization, other than one established for the purpose of conducting or participating in a sports pool"; substituted current definition of sports pool for former definition that read: "Sports pool" means a card divided into squares or spaces,

with the names of the participants in the pool written within such squares or spaces, for which consideration in money is paid by the person playing for each square or space for the chance to win money or other items of value on any sports event wherein the participants in such sports event are natural persons or animals"; and inserted definitions of sports tab and sports tab game. Amendment effective July 1, 1991.

23-5-502. Sports pools and sports tab games authorized — tax. (1) Conducting or participating in sports pools and sports tab games as defined and governed in this part is lawful, except that sports tab games may only be conducted on premises licensed to sell alcoholic beverages for consumption on the premises.

(2) A manufacturer licensed under 23-5-115 who sells sports tabs to a licensed operator for use in a sports tab game shall collect from the operator, at the time of sale, a tax of \$1 for each 100 sports tabs sold and, within 15 days after the end of each calendar quarter, submit to the department any forms required by the department and the proceeds of the collected tax. The manufacturer shall keep a record of taxes collected as required by department rule. The records must be made available for inspection by the department upon request of the department. The department shall retain the proceeds of the tax to administer this part.

History: En. 62-727.1 by Sec. 12, Ch. 508, L. 1977; R.C.M. 1947, 62-727.1; amd. Sec. 56, Ch. 647, L. 1991.

Compiler's Comments

1991 Amendment: In (1), after "pools", inserted "and sports tab games" and at end inserted exception clause; and inserted (2) con-

cerning collection and payment of tax. Amendment effective July 1, 1991.

23-5-503. Rules. (1) The card or other device used for recording the sports pool or sports tab game must clearly indicate in advance of the sale of any chances the number of chances to be sold in that specific pool, the name of the event or series of events, the consideration to be paid for each chance, and the total amount or percentage to be paid to the winners. The sports tabs must be purchased from a manufacturer licensed under 23-5-115.

(2) Each sports tab or chance to participate in a sports pool must be sold for the same amount, which may not exceed \$5, and the total amount paid to all winners of any individual sports pool or sports tab game may not exceed the value of \$500. Chances for a series of events may be purchased all at once prior to the occurrence of the first event.

(3) (a) Except as provided in subsection (3)(b), the winners of any sports pool shall receive a 100% payout of the value of the sports pool. The winner of a sports tab game must receive at least 90% of the total cost of the 100 sports tabs. The operator of the sports tab game may retain the remaining money for administration and other expenses.

(b) A nonprofit organization that maintains records and opens the records to inspection upon reasonable demand to verify that the retained portion is used to support charitable activities, scholarships or educational grants, or

community service projects may retain up to 50% of the value of a sports pool or sports tab game.

(4) A person or nonprofit organization conducting a sports pool or sports tab game may purchase chances or sports tabs to participate in the sports pool or sports tab game but may not:

(a) retain any portion of the amount wagered in the sports pool or sports tab game, except as provided in subsection (3)(b);

(b) charge a fee for participating in the sports pool or sports tab game; or

(c) use the sports pool or sports tab game in any manner to establish odds or handicaps or to allow betting or booking against the person or nonprofit organization conducting the pool or game.

History: En. 62-727 by Sec. 1, Ch. 290, L. 1974; R.C.M. 1947, 62-727(part); amd. Sec. 2, Ch. 22, L. 1989; amd. Sec. 58, Ch. 642, L. 1989; amd. Sec. 45, Ch. 647, L. 1991.

Compiler's Comments

1991 Amendment: In (1), near beginning of first sentence after "card", inserted "or other device", after "recording the" substituted "sports pool or sports tab game must" for "pool and upon which the squares or spaces appear shall", near middle, after "event", inserted "or series of events", and after "total amount" inserted "or percentage" and inserted second sentence requiring that sports tabs be purchased from a licensee; in (2) deleted former first sentence that read: "A chance to participate in a sports pool may not be sold other than upon the premises in which the sports pool is conducted", at beginning of first sen-

tence inserted reference to "sports tab", near middle, after "sold for", substituted "the same amount" for "a consideration", and near end, after "pool", inserted "or sports tab game" and inserted second sentence concerning chances for a series of events; in (3)(a) inserted reference to subsection (3)(b) and inserted second sentence concerning payout on a sports tab game; at end of (3)(b) inserted "or sports tab game"; inserted (4) concerning participation by the person or nonprofit organization conducting the pool or game; and made minor changes in style. Amendment effective July 1, 1991.

23-5-504 through 23-5-508. Repealed. Sec. 68, Ch. 642, L. 1989.

Compiler's Comments

Histories of Repealed Sections:

23-5-504. En. 62-728 by Sec. 2, Ch. 290, L. 1974; R.C.M. 1947, 62-728.

23-5-505. En. 62-729 by Sec. 3, Ch. 290, L. 1974; amd. Sec. 13, Ch. 508, L. 1977; R.C.M. 1947, 62-729.

23-5-506. En. 62-730 by Sec. 4, Ch. 290, L. 1974; amd. Sec. 14, Ch. 508, L. 1977; R.C.M. 1947, 62-730.

23-5-507. En. 62-731 by Sec. 5, Ch. 290, L. 1974; amd. Sec. 15, Ch. 508, L. 1977; R.C.M. 1947, 62-731.

23-5-508. En. 62-732 by Sec. 6, Ch. 290, L. 1974; R.C.M. 1947, 62-732.

23-5-509. Penalty. A person who purposely or knowingly violates or who procures, aids, or abets in a violation of this part is guilty of a misdemeanor punishable pursuant to 23-5-161.

History: En. 62-733 by Sec. 7, Ch. 290, L. 1974; R.C.M. 1947, 62-733; amd. Sec. 59, Ch. 642, L. 1989.

23-5-510. Repealed. Sec. 68, Ch. 642, L. 1989.

History: En. 62-735 by Sec. 9, Ch. 290, L. 1974; amd. Sec. 16, Ch. 508, L. 1977; R.C.M. 1947, 62-735.

23-5-511. Repealed. Sec. 68, Ch. 642, L. 1989.

History: En. 62-734 by Sec. 8, Ch. 290, L. 1974; R.C.M. 1947, 62-734.

23-5-512. Sports pool design — department rules. (1) A sports pool must be designed to ensure that:

(a) there is at least one winner from among the participants in the pool; and

(b) each participant has an equal chance to win the pool.

(2) Competitors in a sports event or series of sports events must be randomly assigned to each participant in the sports pool.

(3) The department shall by rule describe the types of sports pools authorized by this part. Variations in the authorized sports pools must be submitted to the department for review and approval before they are made available for public play.

History: En. Sec. 44, Ch. 647, L. 1991.

Compiler's Comments

Effective Date: Section 58(2), Ch. 647, L. 1991, provided that this section is effective July 1, 1991.

Part 6

Video Gaming Machine Control Law

Part Cross-References

Slot machines. 23-5-153.

23-5-601. Repealed. Sec. 68, Ch. 642, L. 1989.

History: En. Sec. 1, Ch. 720, L. 1985; amd. Sec. 36, Ch. 83, L. 1989.

23-5-602. Definitions. As used in this part, the following definitions apply:

(1) "Associated equipment" means all proprietary devices, machines, or parts used in the manufacture or maintenance of a video gambling machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, metering devices, and cabinetry.

(2) "Bingo machine" means an electronic video gambling machine that, upon insertion of cash, is available to play bingo as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(3) "Draw poker machine" means an electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(4) "Keno machine" means an electronic video gambling machine that, upon insertion of cash, is available to play keno as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(5) "Gross income" means money put into a video gambling machine minus credits paid out in cash.

Cross-References

Initiative, Art. III, sec. 4, Mont. Const.
 Referendum, Art. III, sec. 5, Mont. Const.
 Districting and apportionment, Art. V, sec. 14, Mont. Const.
 Districting and Apportionment Commission, Title 5, ch. 1.
 Times for general election, 13-1-104.
 Election records to be maintained by Secretary of State, 13-1-204.
 Report of state canvass filed in office of Secretary of State, 13-15-506.

Constitutional Convention Transcript**Cross-References**

Adoption, Trans. 3009, 3010.

Section 8. Prohibition. The provisions of this Article do not apply to CONSTITUTIONAL REVISION, Article XIV.

Constitutional Convention Transcript**Cross-References**

Adoption, Trans. 3009, 3010.
 Committee report, Vol. II 816, 821, 1020, 1023 through 1025, 1044.

Committee report, Vol. II 816, 821, 1020, 1023, 1025, 1044.

Cross-references, 1889 and 1972 Constitutions, Vol. II 825.

Debate — committee report, Trans. 2718, 2719.

Debate — style and drafting report, Trans. 2825, 2827, 2921, 2922, 2996.

Delegate proposals, Vol. I 258, 277.

Final consideration, Trans. 2849 through 2851.

Text as adopted, Vol. II 1090.

Section 9. Gambling. All forms of gambling, lotteries, and gift enterprises are prohibited unless authorized by acts of the legislature or by the people through initiative or referendum.

Cross-References

Initiative, Art. III, sec. 4, Mont. Const.
 Referendum, Art. III, sec. 5, Mont. Const.
 Procedures for initiative and referendum, Title 13, ch. 27.
 Parimutuel betting, Title 23, ch. 4, part 3.
 Gambling, Title 23, ch. 5.
 Video gambling machine control law, Title 23, ch. 5, part 6.
 Fights between animals unlawful, 45-8-211.

Constitutional Convention Transcript**Cross-References**

Adoption, Trans. 3009, 3010.

Committee report, Vol. II 816, 822, 825, 1020, 1024, 1025, 1044, 1080, 1081, 1108.

Cross-references, 1889 and 1972 Constitutions, Vol. II 826.

Debate — adoption schedule, Trans. 2997.

Debate — committee report, Trans. 2723 through 2760.

Debate — style and drafting report, Trans. 2828, 2921, 2922, 2996.

Delegate proposals, Vol. I 115, 121, 237, 247.

Final consideration, Trans. 2853, 2854.

Text as adopted, Vol. II 1090.

ARTICLE IV**SUFFRAGE AND ELECTIONS****Section**

1. Ballot.
2. Qualified elector.
3. Elections.

Exhibit 3
3-16-93
HB-433

23-3-604 through 23-3-610 reserved.

23-3-611. Violation as misdemeanor. A person who violates a provision of this chapter is guilty of a misdemeanor and upon conviction is punishable as provided in 46-18-212.

History: En. Sec. 13, Ch. 506, L. 1983.

CHAPTER 4 HORSERACING

Part 1 — Administration

- 23-4-101. Definitions.
- 23-4-102. Chairman — quorum — costs — salary.
- 23-4-103. Department's report — public record.
- 23-4-104. Duties of board.
- 23-4-105. Authority of board.
- 23-4-106. Executive secretary — powers and duties — staff — prohibition on racing activities.

Part 2 — Race Meets

- 23-4-201. Licenses.
- 23-4-202. Penalty for violations of law — authority of board — judicial review.
- 23-4-203. Race meets — when lawful.
- 23-4-204. Race exclusively for Montana-bred horses — bonus for winner.
- 23-4-205. Public liability insurance.

Part 3 — Parimutuel Betting

- 23-4-301. Parimutuel betting — other betting illegal.
- 23-4-302. Distribution of deposits — breakage.
- 23-4-303. Licensee's right to withhold deposits.
- 23-4-304. Gross receipts — department's percentage — collection and allocation.
- 23-4-305. Deposit of unclaimed money.

Chapter Cross-References

- Board of Horseracing created, 2-15-1881.
- Local government — no power to regulate gambling, 7-1-112.

Cruelty to animals — horseraces longer than 2 miles, 45-8-211.

Part 1 Administration

23-4-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Board" means the board of horseracing provided for in 2-15-1881.
- (2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.
- (3) "Immediate family" means the spouse, parents, children, grandchildren, brothers, or sisters of an official or licensee regulated by this chapter and all other persons who have a permanent or continuous residence in the household of the official or licensee.
- (4) "Minor" means a person under 18 years of age.
- (5) "Persons" means individuals, firms, corporations, fair boards, and associations.

(6) "Race meet" means racing of registered horses or mules where the parimutuel system of wagering is used. The term includes simulcast races.

(7) "Simulcast" means a live broadcast of an actual horserace at the time it is run. The term includes races of local or national prominence.

(8) "Simulcast facility" means a facility at which horseraces are simulcast and wagering on the outcome is permitted under the parimutuel system.

(9) "Steward" means an official hired by the department and by persons sponsoring a race meet to regulate and control the day-to-day conduct and operation of a sanctioned meet.

(10) "Board of stewards" means a board composed of three stewards who supervise race meets.

History: En. Sec. 2, Ch. 196, L. 1965; amd. Sec. 13, Ch. 350, L. 1974; R.C.M. 1947, 62-502; amd. Sec. 3, Ch. 274, L. 1981; amd. Sec. 4, Ch. 563, L. 1983; amd. Sec. 1, Ch. 192, L. 1989; amd. Sec. 1, Ch. 557, L. 1989.

23-4-102. Chairman — quorum — costs — salary. (1) The board shall organize by electing one of its members chairman. Three members of the board shall constitute a quorum for the transaction of business by the board.

(2) The board may incur costs, charges, and expenses reasonably necessary to carry out this chapter.

(3) Each member may be paid \$50 for each day in which he is actually and necessarily engaged in the performance of board duties and shall be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, as amended, incurred in his official service.

History: En. Sec. 3, Ch. 196, L. 1965; amd. Sec. 1, Ch. 213, L. 1973; amd. Sec. 2, Ch. 457, L. 1973; amd. Sec. 14, Ch. 350, L. 1974; amd. Sec. 9, Ch. 453, L. 1977; R.C.M. 1947, 62-503; amd. Sec. 1, Ch. 214, L. 1989.

23-4-103. Department's report — public record. (1) The department shall keep detailed records of board meetings, of the business transacted at the meetings, and licenses applied for and issued.

(2) Records of the board kept by the department are public records subject to public inspection.

History: En. Sec. 4, Ch. 196, L. 1965; amd. Sec. 17, Ch. 93, L. 1969; amd. Sec. 15, Ch. 350, L. 1974; R.C.M. 1947, 62-504.

23-4-104. Duties of board. The board shall adopt rules to govern race meets and the parimutuel system. These rules shall include the following:

- (1) definitions;
- (2) auditing;
- (3) supervision of the parimutuel system;
- (4) corrupt practices;
- (5) supervision, duties, and responsibilities of the executive secretary, presiding steward, racing secretary, and other racing officials;
- (6) licensing of all personnel who have anything to do with the substantive operation of racing;
- (7) the establishment of dates for race meets and meetings in the best interests of breeding and racing in this state;
- (8) the veterinary practices and standards which must be observed in connection with race meets;
- (9) absolute responsibility of trainers for the condition of horses and mules, regardless of the acts of third parties;

(10) licensing or renewal of a license of a person whose license has been suspended by the board or another horseracing jurisdiction;

(11) setting license fees commensurate with the cost of issuing a license;

(12) the time, conduct, and supervision of simulcast races and parimutuel betting on simulcast races; and

(13) licensing, approval, and regulation of simulcast facilities.

History: En. Sec. 5, Ch. 196, L. 1965; amd. Sec. 1, Ch. 216, L. 1967; amd. Sec. 16, Ch. 350, L. 1974; amd. Sec. 1, Ch. 533, L. 1977; R.C.M. 1947, 62-505(part); amd. Sec. 5, Ch. 563, L. 1983; amd. Sec. 2, Ch. 192, L. 1989; amd. Sec. 2, Ch. 557, L. 1989.

Cross-References

Licensing of veterinarians, Title 37, ch. 18.

23-4-105. Authority of board. The board shall, subject to 37-1-101 and 37-1-121, license and regulate racing and review race meets held in this state under this chapter. If the board decides to authorize new forms of racing, including new forms of simulcast racing, not currently engaged in in Montana, it shall do so after holding public hearings to determine the effects of these forms of racing on the existing saddle racing program in Montana. The board should consider both economic and safety impacts on the existing racing and breeding industry.

History: En. Sec. 6, Ch. 196, L. 1965; amd. Sec. 17, Ch. 350, L. 1974; R.C.M. 1947, 62-506; amd. Sec. 6, Ch. 563, L. 1983; amd. Sec. 3, Ch. 192, L. 1989; amd. Sec. 3, Ch. 557, L. 1989.

23-4-106. Executive secretary — powers and duties — staff — prohibition on racing activities. (1) The department shall appoint an executive secretary for the board.

(2) The executive secretary, in accordance with rules adopted by the board and provisions of this chapter, shall:

(a) supervise race meets and activities of racing officials;

(b) hire all state racing officials for the department;

(c) inspect race facilities;

(d) prescribe the duties and salary of state stewards; and

(e) perform other duties as directed by the board.

(3) The executive secretary may, subject to the approval of the board, hire staff to assist him in performing his duties.

(4) The executive secretary, a member of his staff, and any member of the executive secretary's or a staff member's immediate family are prohibited from owning, training, or having any interest in a racehorse or mule running on a Montana track or having any financial interest in any Montana racing association. No racing official hired by the department or approved by the board may wager at a race meet at which he presides.

History: En. Sec. 7, Ch. 563, L. 1983; amd. Sec. 4, Ch. 192, L. 1989; amd. Sec. 1, Ch. 447, L. 1991.

Compiler's Comments

1991 Amendment: Inserted (2)(d) concerning prescribing duties and salary of state stewards; and made minor change in style. Amendment effective April 16, 1991.

Cross-References

Administrative rulemaking procedure, Title 2, ch. 4, parts 1 through 3.

Part 2

Race Meets

23-4-201. Licenses. (1) It is unlawful for a person to hold a race meet, including simulcast race meets under the parimutuel system, in this state without a valid license issued by the department under this chapter. A person applying for a license to hold a race meet under this chapter shall file an application with the department which shall set forth the time, place, and number of days the license will continue and other information the board requires.

(2) A person who participates in a race meet shall be licensed and charged an annual fee set by the board, which shall be paid to the department and used for expenses of administering this chapter, subject to 37-1-101(6). Each person holding a license under this chapter shall comply with this chapter and with the rules adopted and orders issued by the board.

(3) A license may not be issued to a person who has failed to pay the fees, taxes, or money required under this chapter.

(4) Applications to hold race meets shall be submitted to the department, and the board shall act on the applications within 30 days. The board is the sole judge of whether the race meet may be licensed and the number of days the meet may continue.

(5) The board shall require that a fair board and an independent racing association conducting race meets meet the requirements of the rules adopted by the board before granting a license.

(6) A racing association consisting of a local fair board or an association approved by a local fair board may apply for a license to hold a simulcast race meet in a simulcast facility.

(7) An unexpired license held by a person who violates this chapter or who fails to pay to the department the sums required under this chapter is subject to cancellation and revocation by the board.

History: (1), (3) thru (5) En. Sec. 7, Ch. 196, L. 1965; amd. Sec. 2, Ch. 216, L. 1967; amd. Sec. 18, Ch. 350, L. 1974; Sec. 62-507, R.C.M. 1947; (2) En. Sec. 5, Ch. 196, L. 1965; amd. Sec. 1, Ch. 216, L. 1967; amd. Sec. 18, Ch. 350, L. 1974; amd. Sec. 1, Ch. 533, L. 1977; Sec. 62-506, R.C.M. 1947; R.C.M. 1947, 62-505(part), 62-507; amd. Sec. 8, Ch. 563, L. 1983; amd. Sec. 4, Ch. 557, L. 1989.

23-4-202. Penalty for violations of law — authority of board — judicial review. (1) A person holding a race meet or an owner, trainer, or jockey participating in a race meet, without first being licensed under this chapter, and a person violating this chapter is guilty of a misdemeanor.

(2) The board or, upon the board's authorization, the board of stewards of a race meet at which they officiate may exclude from racecourses in this state a person whom the board considers detrimental to the best interest of racing as defined by rules of the board.

(3) As its own formal act or through an act of a board of stewards of a race meet, the board may suspend or revoke any license issued by the department to a licensee and assess a fine, not to exceed \$1,000, against a licensee who violates any of the provisions of this chapter or any rule or order of the board. In addition to the suspension or revocation and fine, the board may forbid application for relicensure for a 2-year period.

(4) The board shall promulgate rules implementing this chapter, including the right to a hearing for individuals against whom action is taken or proposed herein. The rules may include provisions for the following:

(a) summary imposition of penalty by the stewards of a race meet, including a fine and license suspension, subject to review under the contested case provisions of the Montana Administrative Procedure Act;

(b) stay of summary imposition of penalty by either the board or board of stewards;

(c) retention of purses pending final disposition of complaints, protests, or appeals of stewards' rulings;

(d) setting aside of up to 2% of exotic wagering on races, including simulcast races, to be used as a bonus for owners pursuant to 23-4-304(2), and up to 30% of the amount set aside may be used to defray administrative costs which shall be in addition to the 20% already withheld under 23-4-302;

(e) using 2% of exotic wagering on live racing to be immediately and equally distributed to all purses except stakes races;

(f) assessment of penalty and interest on the late payment of fines, which must be paid before licenses are reinstated;

(g) definition of exotic forms of wagering on races to be allowed;

(h) standards for simulcast facilities; and

(i) conduct and supervision of simulcast races and parimutuel betting or wagering on simulcast races.

(5) The district court of the first judicial district of the state has exclusive jurisdiction for judicial review of cases arising under this chapter.

History: En. Sec. 8, Ch. 196, L. 1965; amd. Sec. 1, Ch. 183, L. 1974; amd. Sec. 19, Ch. 350, L. 1974; amd. Sec. 1, Ch. 306, L. 1977; R.C.M. 1947, 62-508(part); amd. Sec. 9, Ch. 563, L. 1983; amd. Sec. 5, Ch. 557, L. 1989.

Cross-References

Administrative rules, contested cases, and judicial review, Title 2, ch. 4.

23-4-203. Race meets — when lawful. It is lawful to conduct live or simulcast race meets at a racetrack or simulcast facility or otherwise at any time during the week.

History: En. Sec. 8, Ch. 196, L. 1965; amd. Sec. 1, Ch. 183, L. 1974; amd. Sec. 19, Ch. 350, L. 1974; amd. Sec. 1, Ch. 306, L. 1977; R.C.M. 1947, 62-508(part); amd. Sec. 6, Ch. 557, L. 1989.

23-4-204. Race exclusively for Montana-bred horses — bonus for winner. (1) For the purpose of encouraging the breeding in this state of valuable registered horses, at least one race each day at each race meet shall be limited to horses bred in this state unless, in the board's judgment, there is an insufficient number of Montana-bred horses for such a race. If in the opinion of the board sufficient competition cannot be had among this class of horses, the race may be eliminated for the day and a substitute race provided instead.

(2) A sum equal to 10% of the first money of every purse won by a horse bred in this state shall be paid by the licensee conducting the race meet to the breeder of the horse. Only the money contributed by the licensee conducting the race meet may be considered in computing the bonus.

(3) Two percent of exotic wagering on a simulcast race shall be placed in a fund to be distributed by the board, in addition to existing Montana breeders' awards, on a percentage basis of actual breeders' awards earned.

(4) Up to 10% of the amount set aside for Montana breeders' awards may be used to defray administrative costs in addition to the 20% withheld under 23-4-302.

History: En. Sec. 9, Ch. 196, L. 1965; amd. Sec. 20, Ch. 350, L. 1974; amd. Sec. 2, Ch. 306, L. 1977; R.C.M. 1947, 62-509; amd. Sec. 10, Ch. 563, L. 1983; amd. Sec. 7, Ch. 557, L. 1989.

23-4-205. Public liability insurance. For the protection of the public, exhibitors, and visitors, a person licensed to conduct a race meet or operate a simulcast facility under this chapter shall carry public liability insurance in an amount and form of contract approved by the board.

History: En. Sec. 10, Ch. 196, L. 1965; amd. Sec. 3, Ch. 216, L. 1967; amd. Sec. 21, Ch. 350, L. 1974; R.C.M. 1947, 62-510; amd. Sec. 8, Ch. 557, L. 1989.

Cross-References

Liability insurance, Title 33, ch. 23 and 24.

Part 3 Parimutuel Betting

Part Cross-References

Gambling — when authorized, Art. III,
sec. 9, Mont. Const.

NOT MARK

23-4-301. Parimutuel betting — other betting illegal. (1) It is unlawful to make, report, record, or register a bet or wager on the result of a contest of speed, skill, or endurance of an animal, whether the contest is held within or outside of this state, except under this chapter.

(2) A licensee conducting a race meet under this chapter may provide a place in the race meet grounds or enclosure where the licensee may conduct or supervise the use of the parimutuel system by patrons on the result of the races conducted under this chapter and the rules of the board.

(3) A person licensed under this chapter to hold a race meet may simulcast live races at a place in the race meet grounds or simulcast facility where the licensee may conduct or supervise the use of the parimutuel system by patrons on the results of simulcast races approved by the board.

(4) It is unlawful to conduct pool selling or bookmaking or to circulate handbooks or to bet or wager on a race of a licensed race meet, other than by the parimutuel system and in the race meet grounds or enclosure where the race is held, or to permit a minor to use the parimutuel system.

(5) Each licensee conducting a parimutuel system for an intrastate simulcast race meet shall combine the parimutuel pools at a simulcast facility with those at the actual racing facility for the purpose of determining the odds and computing payoffs. The amount of the handle at the simulcast race meet must be combined with the amount of parimutuel handle at the live racing facility for the purposes of distribution of money derived from parimutuel betting under 23-4-302 and 23-4-304.

(6) Negotiated purse money from intrastate and interstate simulcast parimutuel handles at racing associations that do not conduct live racing will be pooled and distributed to all tracks conducting live racing, all moneys to

be distributed on a percent, based on each track's percent, of total annual on-track parimutuel handle.

History: En. Sec. 11, Ch. 196, L. 1965; amd. Sec. 4, Ch. 216, L. 1967; amd. Sec. 22, Ch. 350, L. 1974; R.C.M. 1947, 62-511; amd. Sec. 11, Ch. 563, L. 1983; amd. Sec. 1, Ch. 221, L. 1987; amd. Sec. 9, Ch. 557, L. 1989; amd. Sec. 1, Ch. 516, L. 1991.

Compiler's Comments

1991 Amendment: In (3), after "may", substituted "simulcast live races at" for "on the day a race meet is conducted, also provide" and deleted last two sentences that provided: "The board shall approve only intrastate races and

races of national prominence to the Montana racing season. However, the board has authority to approve races from other states during the off-season." Amendment effective April 20, 1991.

23-4-302. Distribution of deposits — breakage. (1) Each licensee conducting the parimutuel system shall distribute all sums deposited in any pool to the winner thereof, less an amount which in the case of exotic wagering on races shall not exceed 25% and in all other races shall not exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10, known as "breakage".

(2) Each licensee conducting the parimutuel system for a simulcast race meet shall distribute all sums deposited with the licensee in any pool for such simulcast race meet, less an amount which in the case of exotic wagering on such races shall not exceed 25% and in all other such races shall not exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10, known as "breakage".

(3) Each licensee conducting a parimutuel system for a simulcast race meet shall deduct 1% of its total parimutuel handle of the simulcast facility and give it to the local fair board. The money must be used to operate or enhance the county fairgrounds facility.

History: En. Sec. 12, Ch. 196, L. 1965; R.C.M. 1947, 62-512; amd. Sec. 12, Ch. 563, L. 1983; amd. Sec. 10, Ch. 557, L. 1989; amd. Sec. 2, Ch. 516, L. 1991.

Compiler's Comments

1991 Amendment: In middle of (2) increased percentage from 24% to 25%. Amendment effective April 20, 1991.

23-4-303. Licensee's right to withhold deposits. In the event any government or governmental agency imposes a levy on a licensee by a special tax on the money so deposited under the parimutuel system or upon or against his receipts therefrom, the said licensee may withhold in addition to the aforesaid percent and breakage the amount of the tax so levied.

History: En. Sec. 13, Ch. 196, L. 1965; R.C.M. 1947, 62-513.

23-4-304. Gross receipts — department's percentage — collection and allocation. (1) (a) The licensee shall pay to the department 1% of the gross receipts of each day's parimutuel betting at each race meet, which sums shall be paid to the department within 5 days after receipt by the licensee. At the end of each race meet the licensee shall prepare a report to the department showing the amount of the overpayments and underpayments. If the report shows the underpayments to be in excess of the overpayments, the balance shall be paid to the department. Money paid to the department may be used for the expenses incurred in carrying out this chapter. The licensee shall, at

the same time, pay to the department all sums collected under 23-4-202(4)(d) on exotic wagering on races.

(b) Each licensed simulcast facility shall pay to the department either 1% of the gross receipts of each day's parimutuel betting at each race meet or the actual cost to the board of regulating the simulcast race meet, whichever is higher. The money must be paid to the department within 5 days after receipt of the money by the licensee. At the end of each race meet the licensed simulcast facility shall prepare a report to the department showing the amount of the overpayments and underpayments. If the report shows the underpayments to be in excess of the overpayments, the balance must be paid to the department. Money paid to the department must be deposited in an account in the state special revenue fund and must be used for the administration of this chapter. The licensed simulcast facility shall, at the same time, pay to the department all sums collected under 23-4-202(4)(d) on exotic wagering on races.

(2) At the end of the racing season, sums collected under 23-4-202(4)(d) must be distributed by the department, after first passing through the board's agency fund account, to the licensed owners of those Montana-bred horses or mules finishing in the money at the meet from which the sums derived. The owner's award must be calculated as follows:

(a) divide the total amount collected under 23-4-202(4)(d) by the total amount won by Montana-bred horses or mules;

(b) multiply the quotient derived under subsection (2)(a) by the total amount of money won by each owner's Montana-bred horses or mules.

(3) For purposes of the owner's award under subsection (2), "owner" means the individual, partnership, corporation, person, or other entity that owns the horse or mule at the time of entry.

(4) Licensees may not consider the sums available under 23-4-202(4)(d) when establishing purses.

History: En. Sec. 14, Ch. 196, L. 1965; amd. Sec. 5, Ch. 216, L. 1967; amd. Sec. 23, Ch. 350, L. 1974; R.C.M. 1947, 62-511; amd. Sec. 13, Ch. 563, L. 1983; amd. Sec. 5, Ch. 192, L. 1989; amd. Sec. 11, Ch. 557, L. 1989.

23-4-305. Deposit of unclaimed money. Each licensee holding a race meet shall, within 30 days of the end of the meet, report to the board the total face value of all unclaimed winning tickets from each parimutuel pool. The money from unclaimed winning tickets must be retained by the licensee for capital improvement approved by the board.

History: En. 62-515 by Sec. 1, Ch. 199, L. 1974; R.C.M. 1947, 62-515; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 14, Ch. 563, L. 1983.

CHAPTER 5

GAMBLING

Part 1 — General Provisions, Proceedings, and Penalties

23-5-101. Renumbered 23-5-112 by Code Commissioner, 1989.

23-5-102. Renumbered 23-5-151 by Code Commissioner, 1989.

23-5-103. Renumbered 23-5-152 by Code Commissioner, 1989.

23-5-104. Renumbered 23-5-153 by Code Commissioner, 1989.

23-5-105. Repealed.

Don Bidwell
Superintendent

Mary Herden
District Clerk

Belfry Public Schools

School District No. 34-3
Box 28
Belfry, Montana 59008



(406) 664-3319

November 18, 1992

TO WHOM IT MAY CONCERN:

Please consider this a letter of protest against the action taken to ban the Pig and Iguana races at the Bear Creek Saloon. I feel this is another attempt by large industries to over-regulate small business unnecessarily. Additionally, this action directly affects the education of students in Carbon County by restricting a source of college funds which was invaluable to a student each year.

Certainly, Pitts and Lynn used the races to enhance their business, but they also enhanced the educational opportunities of college-bound students with scholarships, as well as providing educational seminars to area schools. Any area, and ours is no exception, would welcome neighbors who work toward the betterment of our educational system. Your action to restrict their business also goes beyond that in further restricting education beyond restrictions imposed by a sagging economy. I cannot believe that races run at Bear Creek will ever seriously impact revenues of pari-mutuel betting on horses. In fact, I see the apparent selfishness of that industry impacting small businesses far more severely.

For the above reasons, I would ask you to reconsider the decision to restrict the races at Bear Creek Downs. Thank you for your time and consideration in this matter.

Donald L. Bidwell
Superintendent
Belfry Public Schools

Exhibit #3
3-16-93
HB-433



Red Lodge Area Chamber of Commerce

P.O. Box 988
Red Lodge, Montana 59068
(406) 446-1718

September 24, 1992

To: Board of Horse Racing
Department of Commerce
1520 East City Street
Helena, Mt. 59620-0407

From: Red Lodge Chamber of Commerce
Box 988
Red Lodge, Mt. 59068

Dear Sirs,

It has come to our attention that the Pig Races, held at the Bear Creek Saloon in Bearcreek, Mt., are in jeopardy. We, the Red Lodge Chamber of Commerce Board of Directors, have seen the Pig races bring many visitors to this area.

The races have gained national recognition, as they have been featured on "Good Morning America", as well as local and area news publications.

Lynn and Pats DeArmond have shown a great sense of community spirit. They have put forth tremendous effort in creating an atmosphere where families are welcome. Their innovative business venture has also been used as an avenue in which to raise funds for scholarships, as well as many charitable causes. The community, in return, supports the races wholeheartedly as the Pig Races have become an institution in this area.

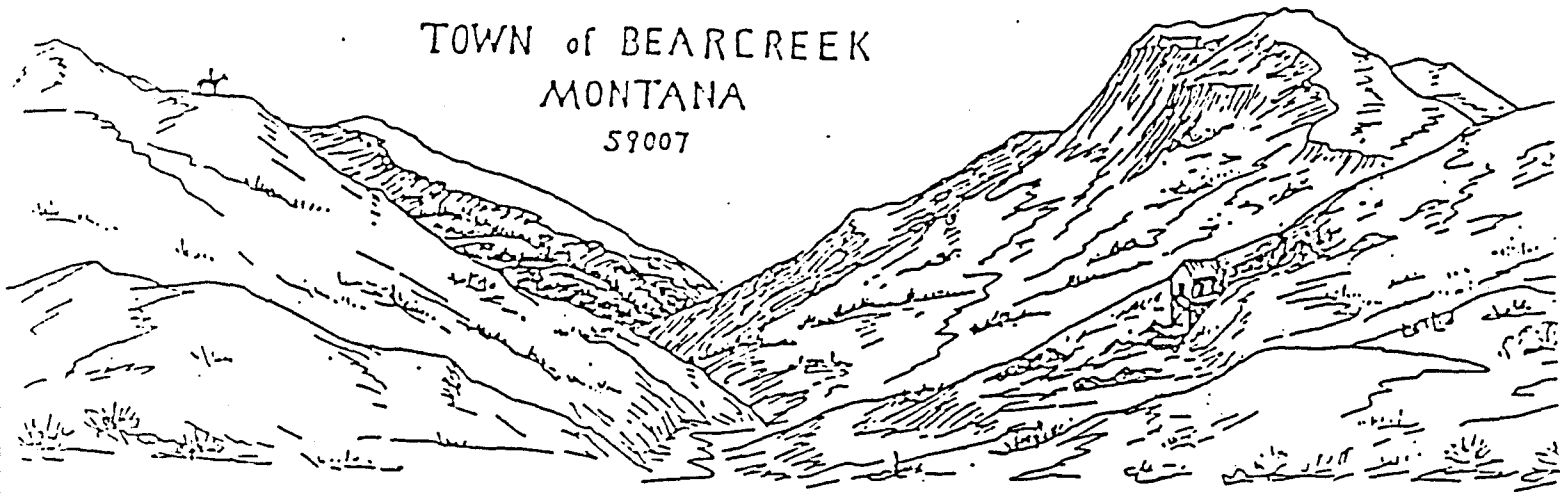
The business community, along with the citizens of Red Lodge and surrounding area will feel a great loss if this family entertainment is discontinued.

Sincerely,

The Red Lodge Chamber of Commerce Board of Directors

Margaret J. McElroy, Treasurer
Marion L. Coleman *Ken McElroy*
Kelly Long *Lillian A. Delaney* *Margaret C. Karas*
Sylvia Allen *Mary E. Mangus*
John Allen - Eric Sanders *John F.*

TOWN of BEARCREEK
MONTANA
59007



October 5, 1992

Horse Racing Commission
Helena, Mt.

Dear Commissioners:

Please be advised that the governing body of the Town of Bearcreek, support Lynn and Bob DeArmond in their "Pig Racing" at the Bearcreek Saloon. Bearcreek is a small town with only the DeArmond's business to help the Town with any non-tax revenue - eg. business license, beer and wine tax and video poker machine dollars. The pig races bring in lots of people, who, therefore, spend dollars not only in Bearcreek, but the City of Red Lodge and the rest of Carbon County towns, helping the economy of all.

The DeArmonds are a small business trying to survive and once again it seems our state is out to smash small business and help only the wealthy and big business prosper. The DeArmonds donate part of the proceeds of their pig racing to Carbon County students as scholarships. They have given as much as \$10,000.00, to our local students. This is money well spent, and wouldn't be available for these students without their pig racing, or if the state charges them an exorbitant racing fee. Instead of giving the money to the students they would have to pay the state, cheating our local students out of a chance to help them with their college education.

We feel the DeArmonds are returning much more to better the Town, County, and State than they are taking from it, so we would appreciate you not imposing impossible fees and allow them to continue the pig racing.

Sincerely,

Cecil Blackler
Mayor Cecil Blackler

Bearcreek Council Members

Mary Lou Homuth

Peggy Kotar

Kathy Burgener

Town Clerk, Jane Swanson-Webb.



RED LODGE MOUNTAIN

MONTANA

October 5, 1992

MONTANA BOARD OF HORSE RACING
HELENA, MT 59620

Dear Members of the Board:

For the past few years, one of the highlights of our guests coming to Red Lodge to ski is the iguana lizard races and the pig races at Bearcreek. This is one of the fun and unique activities that is available in Red Lodge and has become a major attraction for this entire region. Many guests have heard about the lizard races from others and when they come to Red Lodge it is one of the first things they ask about.

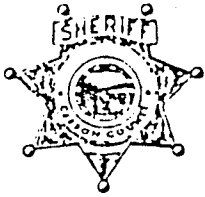
The scholarship fund that is provided from the races is also a huge benefit to college students from Carbon County studying agriculture.

The economical impact of lizard and pig racing at Bearcreek is tremendous, particularly where tourism is our "mainstay". To not give lizard and pig racing at Bearcreek your fullest consideration would be a great step backward for tourism in the entire Red Lodge area.

Your attention to this matter is greatly appreciated.

Sincerely,

Timothy M. Prather
President/General Manager



Alvin R. McGill, *Sheriff*

Carbon County
Sheriff's Department

P.O. Box 230 • Red Lodge, MT 59068
(406) 446-1234

October 5, 1992



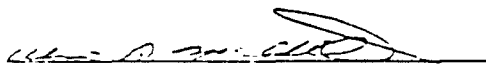
Nick R. Kisch, *Undersheriff*

To Whom It May Concern:

Since Mr. Robert DeArmond has owned the Bearcreek Saloon and turned it into a family dining and entertainment establishment, this office has never received a call for assistance or any complaints regarding any problems of any type.

If you have any further questions, please feel free to contact this department.

Sincerely,
Carbon County Sheriff's Dept.


Alvin R. McGill, Sheriff

ARMc/em

Northwest College

POWELL, WYOMING

sheet 43
3-16-93
HB-433

STUDENT SERVICES

June 10, 1992

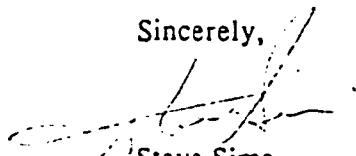
Ty Schwend
PO Box 164
Bridger, MT 59014

Dear Ty:

Congratulations on your fine academic performance for the Spring semester. Because of your outstanding G.P.A., you have been named to the Dean's Honor Roll. Making the Dean's Honor Roll is indeed an accomplishment, with only eleven percent of the entire student body achieving such an honor. You should indeed be proud of your academic accomplishments.

I hope your summer is as successful as your Spring semester was at Northwest. Keep up the excellent work.

Sincerely,



Steve Sims
Dean of Students

SS:ds

Just to keep you informed Ty is doing well
in college & going back this fall - we will all
be up one evening - see ya's
Shirley

DIVERSIONS

Bearcreek is bullish on fun

By RITA MUNZENRIDER
Of the Gazette Staff

BEARCREEK — Pits DeArmond's pig racing put Bearcreek on the map, but it was his wife, Lynn, who launched a successful Mexican restaurant at the tiny town's only saloon.

On the busiest nights, Lynn DeArmond serves up to 250 dinners at the Bearcreek Saloon. The bar's combination of good Mexican food and its unique brand of entertainment — pig racing during the summer and iguana racing in the winter — bring droves of people to the Carbon County town of about 50 inhabitants.

The seven-mile winding stretch of Highway 308 that descends from Red Lodge east to Bearcreek takes travelers past abandoned coal mines, raising doubts that the valley will show many signs of life. But skepticism rapidly fades when the car rounds the final bend and comes bumper-to-bumper with dozens of other cars parked along the road and lining the hillsides.

You know you've found the popular Bearcreek Saloon, where as many as 500 people gather on a single night during summer pig racing weekends.

Both tourists and locals flock to the out-of-the way bar on Friday, Saturday and Sunday nights for food and fun. Last year, they came from all 50 states and 21 foreign countries to witness the unconventional entertainment and feast on South of the Border cuisine.

The food isn't fancy, but it's tasty. And Lynn DeArmond makes a darn fine green chili for a native of the north, especially when it is accompanied by an ice cold bottle of beer.

Not a table was available inside the Bearcreek Saloon's spacious dining room when we arrived without reservations. Lynn, who serves as hostess, estimated there would be a 30-minute wait on this busy Saturday night in June, a slow month for business.

We wound our way to the deck out back where at least a hundred revelers were cheering on the pigs of their choice while looking over the wood railing at the mini race track below. My companion and I had time to watch only one race before we were escorted to our table after less than 10 minutes.

But we were in for more waiting once we were seated. More than 10 minutes had passed and we still hadn't seen our waitress. We were hungry and the spicy aroma of simmering sauces made the delay tougher to take. We changed our attitudes when a pleasant but harried waitress took our order and thanked us for our patience.

She immediately brought us chips and a delicious, very chunky salsa, which we ordered from the menu for \$2.50. A short time later, my smothered burrito (the house specialty) arrived, along with an enchilada plate for my companion, George. "Good stuff; I like it," he said, after one bite of the shredded beef enchiladas that were covered with melted

BEARCREEK SALOON

Between Red Lodge-Belfry

■ **Specialties:** Mexican food.

■ **Hours:** Bar open Thursday-Sunday. Dinner Fridays, Saturdays and Sundays, 5-10 p.m.

■ **Reservations:** Not necessary, but advised for large groups.

■ **Credit cards:** No. Cash or approved checks.

■ **Phone:** 446-3481.

cheese, lettuce, sour cream and salsa. We both liked my beef and bean burrito smothered in green chili and topped with cheese, too.

Most of the dishes sell for \$6. A taco, the cheapest item on the menu besides chips and salsa, costs \$3.

With our feast before us, we settled back to watch the pig races in progress via a big screen television set up on a stage in the restaurant.

Before long, a fellow diner's name had been called to represent pig No. 1 in the next race. An enthusiastic Warren McBratney, a realtor from Cody, Wyo., explained to us that he had paid \$2 to bet on the race. His pig made it to the feeding trough first, winning the race and \$25 for McBratney.

"I was outside rootin' and a tootin'," McBratney said. Praising the food, which he had abandoned in favor of track side view of the race, McBratney said it was his first trip to the Bearcreek Saloon. After hearing friends talk about the bar, he and his wife had to see it for themselves.

The pig racing was fun; the good food was an added bonus, the McBratneys said.

Lynn DeArmond said she began serving food seven years ago, choosing a Mexican menu because it was a favorite for her children while they were growing up. She picked up some of the recipes and cooking tips from a Mexican woman who worked as the DeArmond's housekeeper in Cheyenne years ago.

The bar was "very run down and had absolutely no business" when the DeArmond's bought it in 1982, Lynn says. "We've worked hard the last 10 years to build it up to what it is."

Pig racing is free on Friday, Saturday and Sunday at 7:30 p.m., Memorial Day through Labor Day.

Panel backs animal-racing change

HELENA (AP) — Pig racing and iguana sprints may someday be found outside Bearcreek.

Despite opposition from the horse racing industry Tuesday, the state Gaming Advisory Council unanimously endorsed a law change that would allow betting on any kind of animal race.

The proposal by Bob "Pits" DeArmond, owner of the Bearcreek Saloon, drew plenty of chuckles from council members as he described his on-again, off-again efforts to introduce pig and lizard racing to Montana gamblers.

DeArmond and his wife, Lynn, keep no profits from the races. The money is paid to winning bettors and set aside in a college scholarship fund for awarding to a Carbon County senior every spring.

DeArmond admitted the races bring out-of-town patrons to his bar and that's saved his bacon over the last few years. "We got a town of \$5 (people) and no one drinks," he said.

Iguanas race on an indoor track in winter. Pigs do their thing outdoors in summer months.

Bearcreek Downs started operating in the fall of 1989, but local authorities closed it down the following year because the races were not regulated.

by the state Board of Horse Racing. The board said it doesn't regulate pigs.

In an effort to run legal races, the DeArmonds changed the method of betting. No longer were wagers placed on individual pigs. Instead, bets were handled through a sports pool, with numbered squares corresponding to those on the waddling olinkers.

The races continued for two years until September when state officials concluded animals racing for money are governed by the Board of Horse Racing.

DeArmond convinced the gaming council Tuesday to support legislation that would limit the board's jurisdiction to horses and mules. The change would give the Justice Department's Gambling Control Division control over wagering on other types of animal races.

Council members praised the ingenuity of DeArmond's operation.

"I think it's something we should support," said Glacier County Attorney Jim Nelson of Cut Bank. "It's a good way to bring home the bacon."

"I'm from Glasgow in northeast Montana and we don't have horse racing up there," said Wilmer Zeller, the city's mayor. "I'd love to see pig races."

"Leave the pigs to gambling control," declared Gerald Dunbar, Red Lodge bar owner.

Bob Robinson, head of the division, argued against the proposed bill as opening the door to a variety of new forms of gambling on animals. He warned the proposed change would legalize racing.

Sam Murfitt, executive secretary for the Horse Racing Board, opposed any move to create more competition for the already beleaguered horse racing industry. The amount of money generated annually on the ponies since 1988 dropped 40 percent to about \$8.5 million, he said.

"We see this as one more form of competition for the dollar we had to ourselves" when horse racing was the only legal form of gambling in the state, Murfitt said.

He predicted legalizing wagering on types of animal races will result in taverns and floors and up the walls amid crowds of bettors. Montana with birds and insects scurrying across

While lizards and pigs in Bearcreek are a threat to horse racing, "it's the fear of expansion" that's the real issue, Murfitt said. "A statute change will open the door for anyone who wants to do it."

2-B The Carbon County News
Wednesday, May 22, 1991



Scholarship winner

BEARCREEK—Ty Schwend, of Bridger, left, accepts a check for \$3,200 from Lynn and Pitts DeArmond, owners of the Bearcreek Saloon. The money was raised last summer at Bearcreek Downs, home of the famous pig races, and put in a scholarship fund for students pursuing an education in agricultural sciences.

Schwend, a 1989 graduate of Bridger High School, was chosen from a field of 12 applicants. He is attending Northwest College in Powell and will continue his studies in agriculture and animal science at Montana State University in Bozeman.

"He's a real deserving kid," says Lynn. "He has a strong desire to continue his education." The scholarship board also based the award on maturity and good grades.

Schwend is the son of Shirley and Marvin Schwend, of Bridger.

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES



COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

Testimony Concerning House Bill 433
Before the Senate Business and Industry Committee
March 16, 1993

Chairman Lynch and Committee Members,

The Department of Health and Environmental Sciences (DHES) is concerned that current language in proposed House Bill 433 conflicts with authority given to DHES in 50-50, MCA to "prevent and eliminate conditions and practices which endanger public health" in licensed food establishments.

The presence of all insects, rodents, and mammals (other than seeing eye dogs) in a food establishment is prohibited based upon the potential for the spread of disease through either direct or indirect contact with food and beverages stored, prepared, or served by the establishment. Several rodent-borne diseases include leptospirosis, salmonellosis, trichinosis, plague, rickettsialpox, lymphocytic choriomeningitis, toxoplasmosis, and listeriosis. These diseases can be seriously debilitating or fatal to humans. The Center for Disease Control in Atlanta, Georgia has recorded foodborne illness outbreaks of food establishment employees and patrons which were associated with animals kept inside food establishment premises.

DHES is recommending amendment to House Bill 433 to eliminate conflict with 50-50, MCA where racing of pigs, gerbils, or hamsters may be conducted on the premises of a food establishment. In Section 2, Section 23-5-502, MCA, page 3, line 18, DHES proposes the following addition after "premises.": -, but outside of interior areas of the establishment where food and beverages are usually stored, prepared, or served."

DHES requests the committee to oppose passage of House Bill 433 unless an amendment is made which prevents the presence of disease reservoirs through animals inside of establishments where food and beverages are stored, prepared, or served for humans. With amendment, DHES would not oppose the bill. Thank you for your consideration.

Respectfully submitted,

Mitzi Schwab, Chief
Food and Consumer Safety Bureau
Telephone: 444-2408

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 4

DATE 3/16/93

BILL NO. HB 433

AMENDMENTS TO HOUSE BILL 433
(third reading)

PROPOSED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

1. Page 3, line 18.

Following: "premises"

Insert: ", but outside of interior areas of the establishment
where food and beverages are usually stored, prepared, or served"

HB 349

MR. CHAIRMAN
MEMBERS OF THE COMMITTEE

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 5

DATE 3/16/93

BILL NO. HB 349

My name is John Manzer. I am a Business Representative for Teamsters Local #2 and a Lobbyist for Teamsters Locals #2 and #190. We represent approximately 6,000 members in Montana. Approximately 60% of our membership are required to have a Commercial Drivers' License (CDL).

I am here today to support HB 349. It is our position that this piece of legislation is a very good bill. HB 349 is both an Employer friendly and Employee friendly bill.

Presently Federal Law mandates that every person operating a Commercial vehicle possess a CDL. The rules which cover a person who has a CDL are now in place and are being enforced. The Federal Government has established some very stringent rules and penalties which only pertain to an individual when he/she is operating a Commercial vehicle. For example; if an operator of a Commercial vehicle is issued two citations for speeding or any other serious citation, the individual could lose his/her CDL for one (1) year. If an individual has three citations he/she could lose the CDL for life.

HB 349 would separate an individual's driving record for insurance purposes into two separate categories - one for personal driving record and the other for Commercial driving record.

We, of the Teamsters' Union, know that individuals do act and drive differently at work than they do while not at work.

Attached you will find a copy of an article which was in the Great Falls Tribune on February 21, 1993. The gentlemen in this article are all Teamsters. As you will see when you read this article, they all have exceptional Commercial driving records. None of these gentlemen would ever consider stopping and having a few drinks while "on the job". But, every one of these men has stopped after work with fellow employees; had a few drinks, and then driven home in their personal car! Every one of these gentlemen drive their personal car faster than they would drive the Company truck.

The point I am trying to make here is that everyone acts differently (to some extent) while at work than they do when they are away from work.

It is our position that no employer should have his/her insurance rates affected by an employee's personal driving record. An employer's rates should be established by the employer's usage and record. We also believe that an individual should not be charged higher rates if he/she has a good personal driving record but has citations issued while operating a Commercial vehicle.

There are numerous incidents where employers have been told by their Insurance Carrier that their rates would be raised or coverage dropped if the employer allows a certain employee to continue to drive a company vehicle. (Even if the employee has had an excellent work record and a clean driving record while operating the employer's equipment.) The Insurance Carrier has based his decision solely upon the employee's personal driving record.

If this Committee wishes, I would be more than happy to give them some specific examples of these situations which have caused employers to terminate employees that they did not want to terminate.

People who make their living operating a commercial vehicle are now placed in double jeopardy because not only can they lose their job for moving violations while at work, they can also be forced out of their jobs by insurance companies dictating to employers that the insurance company will raise the employer's insurance rates if an employee's personal driving record (away from work) appears "Bad" to the Insurance Company. The Employer is then confronted with either paying higher insurance rates or discharging the employee. The U.S. Supreme Court has ruled that an employer cannot be forced to pay higher insurance rates in order to protect an employee's job even if the employee is protected by a collective bargaining agreement.

Insurance companies now have the best of both worlds. One company raises an individual's insurance premiums if his/her personal driving record is poor. Another insurance company uses the same record to raise an employer's rates using the same driving record. To us this is a situation which HB 349 corrects. HB 349 protects both the employers and the individuals. We can not see how an insurance company could raise an employer's insurance rates if the employees for that employer have good driving records while at work.

We urge you to strongly support HB 349.

John Manzer

Business Representative
Lobbyist
Teamsters

3-16-93
HB-349

Sunday, February 21, 1993

Great Falls Tribune

Section C

MARKETPLACE



Farm
and ranch
news/ 40

Questions or suggestions? Call business reporter James E. Larcombe, at 791-1463, or 1-800-438-6600.

Buttrey drivers log millions of miles, no accidents

By JAMES E. LARCOMBE
Tribune Staff Writer

Loren Snider says it's luck. Irv Brandjord figures there is a guardian angel involved.

But the credit for millions of accident-free miles logged at the wheel of big Buttrey trucks really belongs to the drivers, company officials say.

In 1992, the company's 34 full-time drivers covered more than three million miles without an accident or being cited for any infraction, even something as minor as having a tail light out.

The string has been stretched to more than four million miles in 1993. A sign on a gate near the Buttrey warehouse on 6th Street Southwest keeps a running total. Accidents caused by other drivers don't figure in the tally.

"It's just one hell of an accomplishment," said Larry Hayward, the Buttrey vice president who oversees the truck fleet and warehouses.

Hayward credits driver diligence and a safety program for the smooth sailing. The success of the safety program also rests with the participants, he says.

"These guys, almost by peer pressure, got this thing up and running," said Hayward.

The company recognized its drivers at a recent banquet. The truck fleet also got its due in a cover story in Refrigerated Transporter, a trade magazine.

"We are probably the first small company to make the cover of it," noted Hayward.

At the banquet, Brandjord, who has worked for Buttrey for 27 years, was named the company's "Safe Driver of the Year." But when it comes to experience, Brandjord isn't at the top of fleet heap.

Snider, 62, has worked for Buttrey for more than 36 years and driven more than four million miles. Bob Loague has put in 28 years. Doug Thompson has 26 years. Frank Hein

more than 25. The drivers each put in 80,000 to 100,000 miles a year behind the wheel. Few of those miles are on two-lane roads are the norm.

When it comes to weather, nothing is normal. The Buttrey trucks carry fire chains year-round. Loague remembers needing the chains to make it over McDonald Pass near Helena on the Fourth of July. Others have similar horror stories.

"That's the thing that amazes me the most," said Hayward. "We have some of the most treacherous truck driving in the country."

Experience is a big factor in the safety record. Many of the Buttrey drivers have more than 20 years experience. Snider says company managers deserve credit for peering sticking with the driving business.

"We have very little turnover in the truck department," he said. "We have a good company to work for."



Tribune photo by James E. Larcombe

Irv Brandjord, Bob Loague, Doug Thompson and Loren Snider are four of the five most experienced truck drivers who work for Buttrey Food and Drug.

Table 8

Accident Rates by Number of Total Convictions
Accumulated during a Concurrent 3-Year Period (1985-87)

Convictions	Number of drivers	Mean accident rate	Times-as-many accidents ^a	% accident-free drivers
0	107,365	0.114	1.00	89.6
1	34,139	0.216	1.89	81.1
2	13,160	0.289	2.54	75.7
3	5,769	0.357	3.13	71.3
4	2,797	0.436	3.82	65.7
5	1,425	0.498	4.37	63.0
6	746	0.572	5.02	57.8
7	421	0.492	4.32	62.5
8	250	0.536	4.70	60.0
9+	369	0.748	6.56	49.3

Note. Sample is limited to drivers licensed for the entire 3-year period. Pearson correlation coefficient between convictions and accidents = .209 ($p < .01$).

^aThe times-as-many factor represents the relative increase in each group's accident rate compared to the zero group's accident rate.

Table 9

Accident Rates by Number of Total Convictions
Accumulated during a Concurrent 6-year Period (1982-87)

Convictions	Number of drivers	Mean accident rate	Times-as-many accidents ^a	% accident-free drivers
0	72,816	0.193	1.00	83.5
1	32,817	0.313	1.62	74.2
2	16,187	0.416	2.16	67.6
3	8,905	0.482	2.50	63.7
4	5,230	0.564	2.92	59.3
5	3,139	0.651	3.37	55.0
6	1,891	0.748	3.88	51.2
7	1,230	0.815	4.22	46.2
8	872	0.781	4.05	48.1
9	588	0.983	5.09	41.0
10	408	1.000	5.18	45.8
11	269	1.040	5.39	36.8
12+	731	1.190	6.17	34.2

Note. Sample is limited to drivers licensed for the entire 6-year period. Pearson correlation coefficient between convictions and accidents = .265 ($p < .01$).

^aThe times-as-many factor represents the relative increase in each group's accident rate compared to the zero group's accident rate.



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SENATE BUSINESS & INDUSTRY

EXHIBIT NO. HB 7

DATE 3/16/93

BILL NO. HB 349

March 16, 1993

To: Senate Business & Industry Committee

From: Walter D. Stieg
Stieg & Associates Insurance, Inc.

My name is Walter D. Stieg. I am the Owner and President of Stieg & Associates Insurance, Inc., an insurance agency in Billings, MT. I specialize in writing commercial auto insurance coverages for trucking firms.

I have a deep concern over House Bill #349. I have attached reasons why I think this House Bill is bad public policy.

In my eighteen years in the commercial auto business, I have worked with the American Trucking Association, Montana Motor Carriers Association, and Great West Casualty Company to improve public safety and to improve the image of the trucking industry, and feel this piece of legislation is a major step backwards in that process.

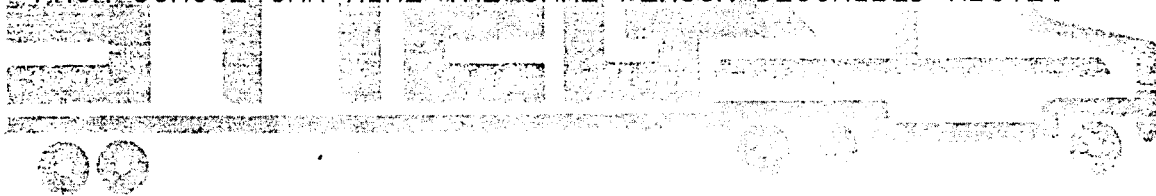
Thank you for your time and feel free to contact me at any time if you have any questions.

ITEMS TO DISCUSS

- 1) OUT OF STATE DRIVERS MOVING TO MONTANA WOULD RUIN OUR LOSS RATIO AS OUR DRIVING STANDARDS WOULD BE LOWER THAN OTHER STATES.
- 2) LOWER DRIVING STANDARDS AND HIGHER LOSS RATIOS WOULD ULTIMATELY LEAD TO LESS INSURANCE MARKETS WILLING TO WRITE COMMERCIAL AUTOS IN THE STATE OF MONTANA.
- 3) WORKERS COMPENSATION LOSS RATIOS WOULD FOLLOW ANY OTHER ACCIDENT RATIOS, THEREFORE BY LOWERING MONTANA DRIVING STANDARDS, WE WILL BE INCREASING WORKERS COMPENSATION EXPOSURES.
- 4) WHAT IS DEFINITION OF COMMERCIAL VEHICLE?
26,000 LBS. OR WHAT? DOES THIS DEFINITION TRACK WITH THE DEFINITION OF A COMMERCIAL VEHICLE UNDER THE DEPT. OF MOTOR VEHICLES?
- 5) WILL THE DEPT. OF JUSTICE PROVIDE TWO SEPARATE MVRs, ONE FOR THE MOTOR CARRIER AND ONE FOR THE INSURANCE COMPANY? IF SO, WHAT WILL IT COST THE DEPT. OF JUSTICE TO HAVE TWO SEPARATE RECORDS?
- 6) THERE IS AN ACTUAL CASE GOING ON TODAY WHERE AN AWARD HAS BEEN MADE FOR NEGLENT ENTRUSTMENT WHERE AN INSURED HAD SHOWED A LACK OF JUDGEMENT IN HIRING AND IN ESSENCE GAVE A LOADED GUN TO SOMEONE WHO WOULD NOT HAVE BEEN TRUSTED WITH THE SAME. THIS AWARD WAS MADE IN THE AMOUNT OF 1.5 PUNATIVE DAMAGES, WHICH MAY OR MAY NOT BE COVERED BY AN INSUROR, AND IS ON TOP OF THE COMPENSATORY DAMAGES.
- 7) WHAT IF DRIVER WITH DUI- HOMICIDE WITH PERSONAL VEHICLE; FELONY WITH PERSONAL VEHICLE; KILLED A MEMBER OF YOUR FAMILY IN A COMMERCIAL VEHICLE.

Exhibit # 7
3-16-93
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- 8) THIS LEGISLATION MAY IN SOME CASES ELEVATE SHORT TERM DRIVER SHORTAGE, BUT IN THE LONG RUN, WOULD INCREASE INSURANCE RATES FOR ALL, THEREFORE, THE GOOD TRUCKING RISK WOULD RENDER ITSELF LESS COMPETITIVE WITH OUT OF STATE COMPETITION.
- 9) INSURANCE COMPANIES ARE ASKED TO GUARANTEE FINANCIAL WELL BEING OF MONTANA EMPLOYERS WITHOUT THE TOOLS WITH WHICH TO MAKE A GOOD EDUCATED DECISION AS TO THE RISK INVOLVED. A BAD DRIVING RECORD IS A VERY STRONG INDICATOR OF POOR JUDGEEMENT AND JUDGEMENT IS THE KEY TO DRIVING SKILLS, WHETHER DRIVING PERSONALLY OR COMMERCIALY.
- 10) REMEMBER THE BIG YELLOW BUS HAULING YOUR CHILDREN TO AND FROM SCHOOL CAN HIRE THE SAME PERSON DESCRIBED ABOVE.



Exhibits from the March 16, 1993 meeting also included 66 pages of signatures in support of House Bill No. 433. The originals are stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

DATE March 16, 1993

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: HB 349, HB 433, HB 538, HB 545

Name	Representing	Bill No.	Check One	
			Support	Oppose
MICHAEL S. MIZERKO	MT. ST. ASSO Plumber & Fitter MT. ST. Bldg & Const. Council	HB 349	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chuck Evilsizer	PSC	HB 538	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Wm Egan	MT Cons. Elect Wkrs	HB 349	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mitz Schuch	DHFS	HB 433	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Roger McBlenn	IIAM	HB 349	<input type="checkbox"/>	<input checked="" type="checkbox"/>
WALTER D. STIEG	STIEG & ASSO. FHS	HB 349	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Stan Dupree	IBEW 44	HB 349	<input type="checkbox"/>	<input type="checkbox"/>
Greg Van Housen	State Farm Ins	HB 349	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Ron Ashabram	State Farm Ins	HB 349	<input type="checkbox"/>	<input checked="" type="checkbox"/>
John Hanger	Teamsters Union	HB 349	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HARLEY WARNER	ASSOC. OF CHURCHES	HB 433	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Tom EBZERY	US West Communications	HB 538	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jim HAYHURST	US West Communications	HB 538	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Carolyn Ennis	Don't Gamble w. Future	HB 433	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Lil McBride	Don't Gamble w. Future	HB 433	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Paul Waterman	Farmers Insurance	HB 349	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3/16/93

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: HB 349, 433, 538, 545

Name	Representing	Bill No.	Check One	
			Support	Oppose
<i>Debra L. Lanza</i>	NATE			
<i>Don Murphy</i>	Mont. Board of Horsemen	HB 433		✓
<i>Gloria Hermanson</i>	Trail Emblem with Fair	HB 433		✓
<i>Don Walker</i>	US WEST	HB 538	✓	
<i>Janet Harper</i>	Humane Society	HB 433		✓
<i>Roger Melgren</i>	IIAM	HB 545	✓	
<i>MARK E NELSON</i>	St. Auditor	HB 545	✓	
<i>Mike Murphy</i>	Dept. of Ag.	HB 545	✓	
<i>Jacqueline Denmark</i>	Am. Ins. Assoc	HB 349 HB 545	✓	✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY