

MINUTES

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

COMMITTEE ON JUDICIARY

Call to Order: By Senator Bill Yellowtail, on March 27, 1993, at 3:10 p.m.

ROLL CALL

Members Present:

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

Members Excused: Sen. Crippen, Sen. Rye

Members Absent: NONE

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

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

Committee Business Summary:

Hearing: NONE
Executive Action: HB 405
HB 121
HB 323
HB 335
HB 482
HB 576
HB 216

EXECUTIVE ACTION ON HB 405

Discussion:

Senator Towe explained amendment hb040504.avl.

Motion:

Senator Towe moved to AMEND HB 405. (Exhibit #1)

Discussion:

Senator Doherty resisted the amendment because the language in the amendment is very vague.

Chair Yellowtail asked Senator Towe about the statement of intent. Senator Towe said the statement of intent needs to be specific in explaining the purpose of HB 405.

Vote:

The motion to Amend HB 405 FAILED by Roll Call Vote.

Motion/Vote:

Senator Doherty moved HB 405 BE CONCURRED IN AS AMENDED. The motion CARRIED with Senator Blaylock voting NO.

EXECUTIVE ACTION ON HB 121

Motion:

Senator Towe moved to AMEND HB 121. (Exhibit #2)

Discussion:

Senator Towe discussed amendment hb012106.avl.

Vote:

The motion to amend HB 121 CARRIED with Senator Grosfield voting NO.

Motion:

Senator Grosfield moved HB 121 BE CONCURRED IN AS AMENDED.

Discussion:

Senator Doherty told the Committee that he would vote against HB 121 because it is poor public policy. When immunity is provided it promotes inefficiency and carelessness.

Senator Grosfield told the Committee that HB 121 came out of the Water Policy Committee. HB 121 does three things. HB 121 places some responsibility on the people for their actions. In the event of an accident, HB 121 would protect those people who built the dam if it was properly engineered. HB 121 also provides for a civil penalty for violation of the Dam Safety Act, which is \$1,000 a day. Senator Grosfield asked the Committee to concur on HB 121.

Vote:

The BE CONCURRED IN AS AMENDED motion for HB 121 failed by Roll Call Vote.

Motion:

Senator Doherty moved to TABLE HB 121.

Discussion:

Senator Grosfield asked Senator Doherty about striking language relating to liability. Senator Doherty said if the language was struck dealing with liability and negligence, he would not oppose the HB 121.

Senator Towe asked Senator Grosfield about a civil penalty. Senator Grosfield said he wanted a civil penalty.

Senator Towe suggested striking everything except section 4 of HB 121.

Senator Grosfield asked Senator Doherty to withdraw his motion.

Senator Doherty withdrew his motion to TABLE HB 121.

Motion:

Senator Grosfield moved to AMEND hb012101.ate.

Discussion:

Senator Grosfield explained the amendments. (Exhibit #3)

Senator Doherty asked Senator Grosfield if it was his intent to strike everything relating to liability and negligence. Senator Grosfield said section 1 and section 2 still relates to liability. Senator Grosfield told the Committee that the language in section 1 and 2 would amend current law.

Senator Towe asked Senator Grosfield if sub 3, page 5 would be included in the amendment to HB 121. Senator Grosfield said yes.

Senator Towe told the Committee that he would support the amendments.

Senator Bartlett asked Senator Grosfield about page 3, subsection 2, line 16. Senator Grosfield said page 3, subsection 2 does not relate to liability, but relates to the issue of dam construction. Senator Grosfield called attention to line 15, page 3, which is in reference to the Water Storage Policy Act which was passed in the last legislature. The Water Storage Policy Act says that if there is a water management problem, all options should be looked at, including storage. If water storage

is the best way to meet the water needs to solve the problem, then it should be accurately pursued.

Senator Doherty suggested striking subsection 2.

Chair Yellowtail said subsection 2 relates to the issue of liability.

Senator Halligan said subsection 2 ties HB 121 in with the Montana Dam Safety Act.

Senator Towe agreed with Senator Halligan. Senator Towe does not feel there would be a problem if subsection 2 was left in.

Vote:

The motion to amend HB 121 CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Grosfield moved HB 121 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 216

Discussion:

Senator Doherty asked the Committee to reconsider the action taken in adopting the amendments for HB 216. The amendments suggested by Senator Towe struck the language "of cost of doing business." The petroleum marketers brought HB 216 forward and they feel the amendments disrupt the intent of HB 216 therefore making it difficult to enforce.

Motion/Vote:

Senator Doherty moved to RECONSIDER HB 216. The motion to reconsider CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Doherty moved to STRIKE amendment hb021602.avl from HB 216 which was adopted March 26, 1993. (Exhibit 4) The motion CARRIED with Senators Grosfield, Towe, Bartlett, and Yellowtail voting NO.

Motion/Vote:

Senator Doherty moved HB 216 BE CONCURRED IN AS AMENDED. The motion CARRIED with Senator Grosfield voting NO.

EXECUTIVE ACTION ON HB 323

Motion:

Senator Halligan moved to TABLE HB 323.

Discussion:

Senator Halligan told the Committee that existing law covers cruelty to animals. County attorneys could charge a person with several counts of cruelty to receive multiple consecutive sentences.

Vote:

The motion to table HB 323 CARRIED with Senators Doherty and Grosfield voting NO.

EXECUTIVE ACTION ON HB 335

Motion:

Senator Harp moved to TABLE HB 335.

Discussion:

Valencia Lane told the Committee that there is a conflict between HB 335 and HB 228. A coordination instruction needs to be amended on HB 335. Ms. Lane said if HB 335 is tabled in Committee, the coordination instructions should be included if it were ever to be removed from the table.

Motion/Vote:

Senator Towe made a substitute motion to AMEND HB 335. (Exhibit #5) The motion CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Harp moved to TABLE HB 335. The motion FAILED with Senator Towe and Harp voting YES.

Vote:

Senator Bartlett moved to AMEND HB 335. (Exhibit #6)

Discussion:

Senator Bartlett explained amendment hb033504.av1.

Senator Towe spoke in favor of the amendments.

Vote:

The motion to amend HB 335 CARRIED UNANIMOUSLY.

Motion:

Senator Towe moved to AMEND HB 335. (Exhibit #7)

Discussion:

Senator Towe explained amendment hb033502.avl.

Vote:

The motion to amend HB 335 CARRIED UNANIMOUSLY.

Motion:

Senator Bartlett moved to AMEND HB 335. (Exhibit #8)

Discussion:

Senator Bartlett explained amendment hb033503.avl.

Vote:

The motion to amend HB 335 CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Harp moved to TABLE HB 335. The motion CARRIED with Senators Bartlett, Brown, and Blaylock voting NO.

EXECUTIVE ACTION ON HB 482

Motion:

Senator Grosfield moved to AMEND HB 482. (Exhibit #9)

Discussion:

Senator Grosfield explained amendment hb048201.ajm.

Vote:

The motion to amend CARRIED UNANIMOUSLY.

Motion:

Senator Grosfield moved HB 482 BE CONCURRED IN AS AMENDED.

Motion:

Senator Harp made a substitute motion to TABLE HB 482.

Discussion:

Senator Franklin asked Senator Harp his reasons for wanting to table HB 482. Senator Harp did not feel HB 482 was cleaned up

enough to pass out of Committee.

Chair Yellowtail supported the motion to table. Chair Yellowtail told the Committee that the amendments removed most of the intent of HB 482.

Senator Grosfield feels HB 482 is important because of the section dealing with civil contempt for failure to pay support and seizing all forms of licenses.

Senator Towe supported the motion to table. Senator Towe feels that seizing peoples licenses would be more vindictive than constructive.

Senator Bartlett said in a number of instances the absence of child support payments is vindictive. Some people who are capable of paying refuse and as a consequence, more people are on welfare. Senator Bartlett said taking away peoples licenses would not be vindictive.

Vote:

The motion to table HB 482 FAILED by Roll Call Vote.

Vote:

The Be Concurred In As Amended motion CARRIED by Roll Call Vote.

EXECUTIVE ACTION ON HB 576

Motion:

Senator Grosfield moved to TABLE HB 576.

Discussion:

Senator Doherty spoke against the table to motion because he felt that HB 576 was a reasonable amendment.

Chair Yellowtail told the Committee that he was not persuaded by testimony during the hearing that there was a need for HB 576. Chair Yellowtail did not think any problems had arisen that needed to be addressed by a constitutional amendment, therefore he supported the motion to table HB 576.

Motion:

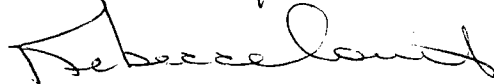
The motion to table CARRIED with Senators Towe and Doherty voting NO.

ADJOURNMENT

Adjournment: 4:15 p.m.



BILL YELLOWTAIL, Chair



REBECCA COURT, Secretary

BY/rc

ROLL CALL

SENATE COMMITTEE

Judiciary

DATE _____

3-27-93

[illegible]

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 29, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 121 (third reading copy -- blue), respectfully report that House Bill No. 121 be amended as follows and as so amended be concurred in.

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

That such amendments read:

1. Title, lines 5 and 6.

Strike: "ESTABLISHING" on line 5 through "OWNERS;" on line 6

2. Page 3, line 23 through page 4, line 11.

Strike: subsection (3) in its entirety

3. Page 4, line 23.

Following: "is"

Insert: ","

Strike: "i."

4. Page 4, line 24.

Strike: "a"

5. Page 5, line 1.

Strike: "i."

Insert: "."

6. Page 5, line 3.

Strike: "or"

7. Page 5, lines 4 through 12.

Strike: subsection (b) in its entirety

8. Page 5, line 19.

Following: line 18

Insert: "[(4) The limitation on liability provided in subsection (2) does not apply to a state-owned dam.]"

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Sec. of Senate

Grosfield
Senator Carrying Bill

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9. Page 6.

Following: line 6

Insert:

"NEW SECTION. Section 7. Two-thirds vote required. It is the intent of the legislature that the provisions of [section 3] apply to all qualifying state-owned dams as well as other dams. Because [section 3], when applied to state-owned dams, limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage. If [this act] fails to receive the required two-thirds vote, the bracketed language in [section 3(4)] is effective. If [this act] receives the required two-thirds vote, the bracketed language is void."

Renumber: subsequent section

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 29, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 216 (third reading copy -- blue), respectfully report that House Bill No. 216 be amended as follows and as so amended be concurred in.

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

That such amendments read:

1. Title, line 11.

Following: "~~REMOVING~~"

Insert: "THE MOTOR FUEL MARKETING UNFAIR PRACTICES LAW; PROVIDING THAT AN ADVERTISEMENT, OFFERING TO SELL, OR SALE OF MOTOR FUEL AT LESS THAN COST IS PRIMA FACIE EVIDENCE OF INTENT TO INJURE OR DESTROY COMPETITORS, INJURE OR DESTROY COMPETITION, OR SUBSTANTIALLY LESSEN COMPETITION; REMOVING"

2. Title, line 13.

Following: "~~AND~~"

Insert: "SECTION 30-14-804, MCA, AND"

3. Page 4.

Following: line 4

Insert: "Section 1. Section 30-14-804, MCA, is amended to read:
"30-14-804. ~~(Temporary)~~ Below-cost sale prohibited.

(1) A wholesaler may not sell motor fuel to a retail motor fuel outlet at less than the delivered cost of the motor fuel plus the cost of doing business if the effect is to injure or destroy competitors or to injure or destroy competition or substantially lessen competition.

(2) A retailer may not sell motor fuel at less than the delivered cost of the motor fuel plus the cost of doing business if the effect is to injure or destroy competitors or to injure or destroy competition or substantially lessen competition.

(3) A wholesaler may not sell or transfer motor fuel to itself or an affiliate for resale at a retail outlet at a transfer price lower than the price the wholesaler charges another retail motor fuel outlet that purchases a like quantity within the same competitive area if the effect is to injure or destroy competitors or to injure or destroy competition or substantially lessen competition.

(4) The provisions of this part do not apply to a sale at wholesale or a sale at retail made:

(a) in an isolated transaction not in the usual course of business;

AM Amd. Coord.
Sec. of Senate

Doherty
Senator Carrying Bill

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TABLED BILL
SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 30, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 335 (third reading copy -- blue), respectfully report that House Bill No. 335 be amended as follows and as so amended be tabled.

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

That such amendments read:

1. Page 25, line 24 through page 26, line 4.

Following: "SEEKS." on line 24

Strike: remainder of line 24 through "INFORMATION." on page 26,
line 4

2. Page 29, line 23.

Following: "obligee"

Strike: remainder of line 23 through "assistance"

3. Page 62, line 11 through page 64, line 8.

Strike: subsections (6)(a) through (7)(c) in their entirety

Insert: "(7) A support lien is perfected:

(a) as to real property, upon filing a notice of support lien with the clerk of the district court in the county or counties in which the real property is or may be located at the time of filing or at any time in the future;

(b) as to motor vehicles or other items for which a certificate of ownership is issued by the department of justice, upon filing a notice of support lien with the department of justice in accordance with the provisions of Titles 23 and 61;

(c) as to all other personal property, upon filing a notice of support lien in the place required to perfect a security interest under 30-9-401. The county clerk and recorder or the secretary of state, as appropriate, shall cause the notice of support lien to be marked, held, and indexed as if the notice of support lien were a financing statement within the meaning of the Uniform Commercial Code.

(8) A buyer for value of an obligor's personal property, other than motor vehicles and other items for which a certificate of ownership is issued by the department of justice, who buys in good faith and without knowledge of the support lien takes the property free of the support lien."

Renumber: subsequent subsections

4. Page 64, line 20.

Strike: "(8)"

Insert: "(9)"

5. Page 66, line 10.

Following: line 9

Insert: "NEW SECTION. Section 31. Coordination instruction. If House Bill No. 228 is passed and approved and if it includes a section that amends 40-5-118, then [section 9 of this act], amending 40-5-118, is void."

Renumber: subsequent section

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 4
March 29, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 405 (third reading copy -- blue), respectfully report that House Bill No. 405 be amended as follows and as so amended be concurred in.

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

That such amendments read:

1. Title, line 6.

Following: "PROSECUTED;"

Strike: "AND"

Insert: "CREATING A STATUTE OF LIMITATIONS FOR CIVIL ACTIONS TO RECOVER DAMAGES FOR INJURY SUFFERED AS A RESULT OF RITUAL ABUSE OF A MINOR;"

2. Title, line 7.

Strike: "SECTION"

Insert: "SECTIONS 27-2-204 AND"

Following: "MCA"

Insert: "; AND PROVIDING A RETROACTIVE APPLICABILITY DATE"

3. Page 1, line 8.

Following: line 7

Insert: "

STATEMENT OF INTENT

It is the intent of the legislature that the phrase "ceremony, rite, or ritual" be interpreted in a manner that does not include a ceremony, rite, or ritual performed in a formal, commonly recognized religious ceremony."

4. Page 1, line 13.

Following: "of"

Strike: "a"

Insert: "any"

Following: "or"

Strike: "similar occurrence"

Insert: "ritual or of any training or practice for any ceremony, rite, or ritual"

5. Page 1, line 14.

Following: line 13

Insert: "(a) has sexual intercourse without consent with a person less than 16 years of age; commits assault, aggravated assault, or felony assault against a victim less than 16 years of age; or kills a person less than 16 years

AM Amd. Coord.
SH Sec. of Senate

Doherty
Senator Carrying Bill

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financial resources and future ability of the offender to pay restitution, the court shall require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244."

15. Page 4.

Following: line 13

Insert: "NEW SECTION. Section 3. Tort actions -- ritual abuse of minor. (1) An action based on intentional conduct brought by a person for recovery of damages for injury suffered as a result of ritual abuse of a minor must be commenced not later than:

- (a) 3 years after the act of ritual abuse of a minor that is alleged to have caused the injury; or
- (b) 3 years after the plaintiff discovers or reasonably should have discovered that the injury was caused by the act of ritual abuse of a minor.

(2) It is not necessary for a plaintiff to establish which act, in a series of acts of ritual abuse of a minor, caused the injury that is the subject of the suit. The plaintiff may compute the period referred to in subsection (1)(a) from the date of the last act by the same perpetrator.

(3) As used in this section, "ritual abuse of a minor" means any act committed against a plaintiff who was less than 18 years of age at the time the act occurred and that would have been a violation of [section 1].

(4) The provisions of 27-2-401 apply to this section.

Section 4. Section 27-2-204, MCA, is amended to read:
"27-2-204. Tort actions -- general and personal injury. (1) Except as provided in 27-2-216 and [section 3], the period prescribed for the commencement of an action upon a liability not founded upon an instrument in writing is within 3 years.

(2) The period prescribed for the commencement of an action to recover damages for the death of one caused by the wrongful act or neglect of another is within 3 years.

(3) The period prescribed for the commencement of an action for libel, slander, assault, battery, false imprisonment, or seduction is within 2 years."

Renumber: subsequent section

16. Page 4, line 15.

Following: line 14

Insert: "(1)"

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 29, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 482 (third reading copy -- blue), respectfully report that House Bill No. 482 be amended as follows and as so amended be concurred in.

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

That such amendments read:

1. Title, lines 5 through 7.

Strike: "REQUIRING" on line 5 through "SERVICES;" on line 7

Insert: "AND"

2. Title, line 10.

Strike: "; AND" through "MCA"

3. Page 1, line 14.

Strike: "4 and 12"

Insert: "2 and 10"

4. Page 1, line 16.

Strike: "4"

Insert: "2"

5. Page 1, line 17.

Strike: "11"

Insert: "9"

6. Page 5, line 16.

Following: "(a)"

Insert: "not more than"

7. Page 5, line 17.

Following: "(b)"

Insert: "not more than"

8. Page 5, line 18.

Following: "(c)"

Insert: "not more than"

9. Page 6, line 21 through line 4 of page 12.

Strike: sections 2 and 3 in their entirety

Renumber: subsequent sections

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M Sec. of Senate

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Senator Carrying Bill

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10. Page 14, line 22.
Strike: "right or"

11. Page 13, line 4.
Page 19, line 12.
Page 20, lines 5 and 6.
Page 21, line 10.
Page 23, lines 13 and 15.
Page 23, lines 18 and 19.
Page 23, line 24.
Page 24, lines 1 and 2.
Page 24, line 5.
Strike: "5 through 12"
Insert: "3 through 10"

12. Page 17, lines 19 and 22.
Page 20, line 1.
Page 21, line 16.
Strike: "7"
Insert: "5"

13. Page 23, lines 21 and 23.
Strike: "4"
Insert: "2"

-END-

ROLL CALL VOTE

SENATE COMMITTEE

Judiciary

BILL NO. HB 905

DATE 3-27-93

TIME 3:18

A.M. \ P.M.

NAME _____

YES NO

[illegible]

Rebecca Lawt
SECRETARY

Bill Yellowtail
CHAIR

MOTION: to amend HB 405 failed

ROLL CALL VOTE

SENATE COMMITTEE

Judiciary

BILL NO.

HB 121

DATE 3-28-93

TIME 3.26

A.M. P.M.

NAME _____

YES

NO

[illegible]

Rebecca Lawet

SECRETARY

Bill Weller

CHAIR

MOTION: to HB121 BC1AA failed.

ROLL CALL VOTE

SENATE COMMITTEE

Judiciary

BILL NO.

HB
TO. 482

DATE 3-27-93

TIME 3:51

A.M. (P.M.)

NAME _____

YES NO

[illegible]

Rebecca Garet

SECRETARY

Bill Yellowtail

CHAIR

MOTION: for HB482 BCIAA

ROLL CALL VOTE

SENATE COMMITTEE

Judiciary

BILL NO. HB482

DATE 3-27-93

TIME 3:50

A.M. P.M.

NAME _____

YES

NO

[illegible]

Rebecca Loust
SECRETARY

Bill Yellowtail
CHAIR

MOTION: to table HB 482 failed.

ROLL CALL VOTE

SENATE COMMITTEE Judiciary

BILL NO. HB576

DATE 3-27-93 TIME _____ A.M. P.M.

NAME _____

YES NO

[illegible]

Rebecca Lawt
SECRETARY

Bill Yellowtail
CHAIR

MOTION: to table HB 576.

Amendments to House Bill No. 405
Third Reading Copy

Requested by Senator Towe
For the Committee on Judiciary

Prepared by Valencia Lane
March 12, 1993

1. Page 1, line 8. "

Following: line 7

Insert: "

STATEMENT OF INTENT

It is the intent of the legislature that the phrase "ceremony, rite, or ritual" not mean a ceremony, rite, or ritual performed in a formal, commonly recognized religious ceremony. It is intended that the phrase includes but not be limited to satanic cult ceremonies, rites, and rituals."

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 3-27-93
BILL NO. HB 405

Amendments to House Bill No. 121
Third Reading Copy (BLUE)

Requested by Senator Towe
For the Committee on Judiciary

Prepared by Valencia Lane
March 18, 1993

1. Page 5, line 12.

Following: "dam."

Insert: "For the purposes of subsection (b), "placed" means to
locate a structure downstream from an existing dam after
[the effective date of this act]."

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 2
DATE 3-27-93
BILL NO. HB121

Amendments to House Bill No. 121
Third Reading Copy (BLUE)

Requested by Senator Towe
For the Committee on Judiciary

Prepared by Valencia Lane
March 18, 1993

1. Page 5, line 12.

Following: "dam."

Insert: "For the purposes of subsection (b), "placed" means to
locate a structure downstream from an existing dam after
[the effective date of this act]."

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 2
DATE 3-27-93
BILL NO. HB121

Amendments to House Bill No. 121
Third Reading Copy (BLUE)

Requested by Senator Towe
For the Committee on Judiciary

Prepared by Valencia Lane
March 18, 1993

1. Page 5, line 12.

Following: "dam."

Insert: "For the purposes of subsection (b), "placed" means to
locate a structure downstream from an existing dam after
[the effective date of this act]."

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 2
DATE 3-27-93
BILL NO. HB121

Amendments to House Bill No. 121
Third Reading Copy

Requested by Sen. Grosfield
For the Committee on Judiciary

Prepared by Todd Everts
March 26, 1993

1. Title, lines 5 and 6.
Strike: "ESTABLISHING" on line 5 through "OWNERS;" on line 6
2. Page 3, line 23 through page 4, line 11.
Strike: subsection (3) in its entirety
3. Page 4, line 23.
Following: "is"
Insert: ", "
Strike: ":"
4. Page 4, line 24.
Strike: "a"
5. Page 5, line 1.
Strike: ";"
Insert: "."
6. Page 5, line 3.
Strike: "or"
7. Page 5, lines 4 through 12.
Strike: subsection (b) in its entirety

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 3-27-93
BILL NO. HB121

Amendments to House Bill No. 216
Third Reading Copy (BLUE)

Requested by Senator Towe
For the Committee on Judiciary

Prepared by Valencia Lane
March 25, 1993

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 4
DATE B-27-93
BILL NO. HB2116

1. Title, line 11.

Following: "REMOVING"

Insert: "THE MOTOR FUEL MARKETING UNFAIR PRACTICES LAW; PROVIDING
THAT AN ADVERTISEMENT, OFFERING TO SELL, OR SALE OF MOTOR
FUEL AT LESS THAN COST IS PRIMA FACIE EVIDENCE OF INTENT TO
- INJURE OR DESTROY COMPETITORS, INJURE OR DESTROY
COMPETITION, OR SUBSTANTIALLY LESSEN COMPETITION; EXTENDING"

2. Title, line 13.

Following: "AND"

Insert: "SECTIONS 30-14-803 AND 30-14-804, MCA, AND"

3. Page 4.

Following: line 4

Insert: "Section 1. Section 30-14-803, MCA, is amended to read:
"30-14-803. (Temporary) Definitions. As used in this part,
unless the context requires otherwise, the following definitions
apply:

(1) "Affiliate" means a person who, other than through a
franchise or marketing agreement, controls, is controlled by, or
is under common control with any other person.

~~(2) "Cost of doing business", in the absence of proof of
lesser cost, means 1% of the delivered cost of motor fuel for
wholesale sales and 6% of the delivered cost of motor fuel for
retail sales and in other cases includes all costs incurred in
the conduct of business, including but not limited to:~~

~~(a) labor, including salaries of executives and officers;~~
~~(b) rent that is not less than the fair market value based
on current use;~~

~~(c) interest on borrowed capital;~~

~~(d) depreciation;~~

~~(e) selling cost;~~

~~(f) maintenance of equipment;~~

~~(g) losses due to breakage or damage;~~

~~(h) credit card fees or other charges;~~

~~(i) credit losses; and~~

~~(j) all licenses, taxes, insurance, and advertising.~~

~~(3)(2)~~ "Customary discount for cash" means an allowance,
whether part of a larger discount or not, made to a wholesaler or
retailer when a person pays for motor fuel within a limited or
specified time.

~~(4)(3)~~ "Delivered cost of motor fuel" means:

(a) for a distributor or retailer, the lower of the most
recent cost of motor fuel to the distributor or retailer or the
lowest replacement cost of motor fuel to the distributor or
retailer within 5 days prior to the date of sale, in the

"30-14-804. (Temporary) Below-cost sale prohibited. (1) A wholesaler may not sell motor fuel to a retail motor fuel outlet at less than the delivered cost of the motor fuel ~~plus the cost of doing business~~ if the effect is to injure or destroy competitors or to injure or destroy competition or substantially lessen competition.

(2) A retailer may not sell motor fuel at less than the delivered cost of the motor fuel ~~plus the cost of doing business~~ if the effect is to injure or destroy competition or substantially lessen competition.

(3) A wholesaler may not sell or transfer motor fuel to itself or an affiliate for resale at a retail outlet at a transfer price lower than the price the wholesaler charges another retail motor fuel outlet that purchases a like quantity within the same competitive area if the effect is to injure or destroy competition or substantially lessen competition.

(4) The provisions of this part do not apply to a sale at wholesale or a sale at retail made:

(a) in an isolated transaction not in the usual course of business;

(b) if motor fuels are advertised, offered for sale, or sold in a bona fide clearance sale for the purpose of discontinuing trade in the motor fuel and the advertising, offer to sell, or sale states the reason for the sale and the quantity of the motor fuel advertised, offered for sale, or to be sold;

(c) if the motor fuel is advertised, offered for sale, or sold as imperfect or damaged and the advertising, offer of sale, or sale states the reason for the sale and the quantity of the motor fuel advertised, offered for sale, or sold;

(d) if motor fuel is sold upon the final liquidation of a business; or

(e) if motor fuel is advertised, offered for sale, or sold by a fiduciary or other officer under the order or direction of a court.

(5) Notice required under this section is not sufficient unless the subject of the sale is kept separate from other stocks and is clearly and legibly marked with the reason for the sale and any advertisement of the goods indicates the same facts and the quantity to be sold.

(6) A wholesaler or retailer may advertise, offer to sell, or sell motor fuel at a price made in good faith to meet the price of a competitor who is selling the same or a similar product of like grade and quality. The price of motor fuel advertised, offered for sale, or sold under the exceptions in subsection (4) may not be considered the price of a competitor and may not be used as a basis for establishing prices below cost, and the price established at a bankruptcy sale may not be considered the price of a competitor under the provisions of this section.

~~(7) If a wholesaler sells motor fuel to another wholesaler, the former is not required to include in his selling price to the latter the cost of doing business as defined in 30-14-803, but the latter wholesaler, upon resale to a retailer, is subject to the provisions of this section.~~

(7) Evidence of advertisement, offering to sell, or sale of

Amendments to House Bill No. 335
Third Reading Copy (BLUE)

Requested by Dept. of SRS
For the Committee on Judiciary

Prepared by Valencia Lane
March 11, 1993

1. Page 66, line 10.

Following: line 9

Insert: "NEW SECTION. Section 31. Coordination instruction. If House Bill No. 228 is passed and approved and if it includes a section that amends 40-5-118, then [section 9 of this act], amending 40-5-118, is void."

Renumber: subsequent section

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 5
DATE 3-27-93
BILL NO. HB335

Amendments to House Bill No. 335
Third Reading Copy

Requested by Senator Bartlett
For the Committee on Judiciary

Prepared by Valencia Lane
March 24, 1993

1. Page 62, line 11 through page 64, line 8.

Strike: subsections (6)(a) through (7)(c) in their entirety

Insert: "(7) A support lien is perfected:

(a) as to real property, upon filing a notice of support lien with the clerk of the district court in the county or counties in which the real property is or may be located at the time of filing or at any time in the future;

(b) as to motor vehicles or other items for which a certificate of ownership is issued by the department of justice, upon filing a notice of support lien with the department of justice in accordance with the provisions of Titles 23 and 61;

(c) as to all other personal property, upon filing a notice of support lien in the place required to perfect a security interest under 30-9-401. The county clerk and recorder or the secretary of state, as appropriate, shall cause the notice of support lien to be marked, held, and indexed as if the notice of support lien were a financing statement within the meaning of the Uniform Commercial Code.

(8) A buyer for value of an obligor's personal property, other than motor vehicles and other items for which a certificate of ownership is issued by the department of justice, who buys in good faith and without knowledge of the support lien takes the property free of the support lien."

Renumber: subsequent subsections

2. Page 64, line 20.

Strike: "(8)"

Insert: "(9)"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 6
DATE 3-27-93
BILL NO. HB335

Amendments to House Bill No. 335
Third Reading Copy

Requested by Senator Towe
For the Committee on Judiciary

Prepared by Valencia Lane
March 17, 1993

1. Page 25, line 24 through page 26, line 4.

Following: "SEEKS." on line 24

Strike: remainder of line 24 through "INFORMATION." on page 26,
line 4

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 7
DATE 3-27-93
BILL NO. HB335

Amendments to House Bill No. 335
Third Reading Copy

Requested by Rep. Howard Toole
For the Committee on Judiciary

Prepared by Valencia Lane
March 17, 1993

1. Page 29, line 23.

Following: "obligee"

Strike: remainder of line 23 through "assistance"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 8
DATE 3-27-93
BILL NO. HB335

Amendments to House Bill No. 482
Third Reading Copy

Requested by Sen. Grosfield
For the Committee on the Judiciary

Prepared by John MacMaster
March 26, 1993

1. Title, lines 5 through 7.
Strike: "REQUIRING" on line 5 through "SERVICES;" on line 7
2. Title, line 10.
Strike: "; AND" through "MCA"
3. Page 1, line 14.
Strike: "4 and 12"
Insert: "2 and 10"
4. Page 1, line 16.
Strike: "4"
Insert: "2"
5. Page 1, line 17.
Strike: "11"
Insert: "9"
6. Page 5, lines 16, 17, and 18.
Following: "(a)" on line 16, "(b)" on line 17, and "(c)" on line 18
Insert: "not more than"
7. Page 6, line 21 through line 4 of page 12.
Strike: sections 2 and 3 in their entirety
Renumber: subsequent sections
8. Page 14, line 22.
Strike: "right or"
9. Page 13, line 4.
Page 19, line 12.
Page 20, lines 5 and 6.
Page 21, line 10.
Page 23, lines 13 and 15.
Page 23, lines 18 and 19.
Page 23, line 24.
Page 24, lines 1 and 2.
Page 24, line 5.
Strike: "5 through 12"
Insert: "3 through 10"
10. Page 17, lines 19 and 22.
Page 20, line 1.
Page 21, line 16.
Strike: "7"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 9
DATE 3-27-93
BILL NO. HB482

Insert: "5"

11. Page 23, lines 21 and 23.

Strike: "4"

Insert: "2"