

MINUTES

MONTANA SENATE  
54th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By CHAIRMAN JOHN HERTEL, on March 22, 1995, at  
8:00 a.m. .

ROLL CALL

**Members Present:**

Sen. John R. Hertel, Chairman (R)  
Sen. Steve Benedict, Vice Chairman (R)  
Sen. William S. Crismore (R)  
Sen. C.A. Casey Emerson (R)  
Sen. Ken Miller (R)  
Sen. Mike Sprague (R)  
Sen. Gary Forrester (D)  
Sen. Terry Klampe (D)  
Sen. Bill Wilson (D)

**Members Excused:** N/A

**Members Absent:** N/A

**Staff Present:** Bart Campbell, Legislative Council  
Lynette Lavin, Committee Secretary

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

**Committee Business Summary:**

Hearing: None  
Executive Action: HB 488 BE CONCURRED IN AS AMENDED  
HB 518 BE CONCURRED IN AS AMENDED  
HB 574 BE CONCURRED IN AS AMENDED

EXECUTIVE ACTION ON HB 488

**Motion:** SEN. STEVE BENEDICT MOVED TO FURTHER AMEND HB 488.

**Discussion:** SEN. BENEDICT commented that there was a problem with amendment 2. SEN. KEN MILLER had a problem with striking the words "the reason". He related Page 3, line 12, of the bill stated the insurer sends written communication to the individual disclosing the reason why the insurance coverage was declined. The consensus of the committee was that the insured should be given the reason for the refusal of insurance coverage. He said the insurer did not know the reason because he did not prepare the credit report. He maintained the individual who was applying could go back to the credit bureau and receive the necessary information.

**SEN. GARY FORRESTER** stated the insurance company made the determination to deny insurance coverage.

**SEN. CASEY EMERSON** commented the client would not know the reason for denial. He said if the insurer stated the reason as a poor credit rating, the individual would know how to correct the situation.

**Larry Akey, National Association of Independent Insurers**, stated amendments 2 and 3 together would accomplish what the committee was hoping to accomplish. He related the insurer must notify the applicant in writing that their policy had been nonrenewed because of credit information pertaining to the applicant or the insured. He said their concern with the original language "the reason" was somewhat ambiguous and required the insurance company to provide information which they did not have access to.

**SEN. FORRESTER** asked who decided whether the credit risk was the problem and **Mr. Akey** commented they had no problem telling people they had been declined or nonrenewed because of credit information relating to the applicant. Their concern was an applicant wanting to know why his credit risk was a problem. He said the insurance company had no specifics on that information.

**SEN. BENEDICT** clarified page 3, line 13, the amendment would read, "the insurance coverage was declined, not renewed, or limited in scope or amount of coverage or benefits because of credit information relating to the applicant or the insured". He also clarified that he had no problem with amendment 4. He expressed on Page 3, line 15, the amendment would read, "(iii) upon subsequent request of the individual, mailed within 10 days of the receipt of the declination or nonrenewal, the insurer provided the individual with a copy of the credit report at issue within 10 days of receipt of the request."

**Vote:** The motion **CARRIED** on oral vote with **SEN. FORRESTER** and **SEN. BILL WILSON** voting "NO".

**Motion/Vote:** **SEN. BENEDICT** MOVED HB 488 AS AMENDED BE CONCURRED IN. The motion **CARRIED UNANIMOUSLY** on oral vote. **SEN. FORRESTER** will carry the bill on the Senate floor.

#### EXECUTIVE ACTION ON HB 518

**Motion:** **SEN. BENEDICT** MOVED TO AMEND HB 518. (Amendment document name hb051801.agp)

**Discussion:** **SEN. WILSON** asked what was the "Heritage of Montana Enterprise Act". **SEN. BENEDICT** stated all duties and functions of the advisory council established by the Heritage Act could be preformed by an existing advisory board appointed by the

Governor. He related in an effort to make government more efficient the Governor requested this amendment.

**SEN. EMERSON** asked what the Heritage Act accomplished and **Lance Melton** stated he did not have much information other than the amendment would remove a duplicative program.

Vote: The motion **CARRIED UNANIMOUSLY** on oral vote. .

Discussion: **Mr. Campbell** explained the new amendments HB051801.ABC. He maintained the amendment which just passed was incorporated into those amendments. **SEN. LYNCH** was concerned the bill clarified the Board of Realty could not retest licensed real estate agents and **Mr. Campbell** said amendment 20 would take care of this. It was his understanding that **REP. TUSS**, as well as the Department, had no problem with this amendment.

Motion: **SEN. BENEDICT** MOVED TO SEGREGATE AMENDMENT 7 AND AMENDMENT 21.

Discussion: **SEN. BENEDICT** explained that amendment 7 would go back to the original language of the bill which used the word "may" instead of "shall". He would also like to strike amendment 21.

**Mr. Melton** explained that if **SEN. BENEDICT** wanted to segregate amendments related to the issue of § 39-5-306, there would be other sections in those amendments which should also be segregated. He maintained this would be amendment 2 which was in the title and added the language 39-5-306 into the amended sections. Amendment 4 was identified. Amendment 21 was also identified. **Mr. Melton** stated amendment 23 would strike 39-5-306 from the repealer.

**Mr. Campbell** clarified that if **SEN. BENEDICT's** motion was accepted and passed, 39-5-306 would go back to being repealed.

**SEN. WILSON** stated that repeal of § 39-5-306 was not the intent of the sponsor. He maintained it was an oversight. He related it was not the wish of the sponsor to have that stricken from those amendments.

**SEN. TERRY KLAMPE** stated there were three good reasons not to strike amendment 7. He conveyed when the word "shall" was followed by discretionary language, this created an ambiguity which was not good to put into law. He related the second reason was by using "shall" the board was mandated to do something. "May" would give the board some discretion. He maintained the third reason was that it complicated the bill.

**SEN. BENEDICT** stated the bill was introduced with "shall". It was not introduced with "may".

REP. TUSS stated her original intent was to have "shall" instead of "may". They wanted the boards to use due process which would reflect consistency from one board to the other. Referring to amendment 21, she stated SEN. WILSON was correct, they repealed the section on professional occupational agencies. She said this section had never been used but was important to a number of people in the state. She asked the committee to retain that amendment.

SEN. BENEDICT stated he wanted to keep his motion to segregate amendments 7 and 21.

SEN. KLAMPE asked for a clarification on the word change affecting hygienists.

SEN. BENEDICT stated the reason the language was put in originally was to give the board discretion. He explained there was a tremendous problem between hygienists and dentists. He related if the dentists had power over the hygienists, they would use it. He said that was his reason for using the word "shall".

Vote: The motion CARRIED UNANIMOUSLY on oral vote.

Motion/Vote: SEN. BENEDICT MOVED TO ADOPT THE AMENDMENTS TO HB 518 WITH EXCEPTION OF AMENDMENT 7 AND AMENDMENT 21. (AMENDMENT HB051801.ABC) The motion CARRIED UNANIMOUSLY on oral vote.

Motion/Vote: SEN. MILLER MOVED TO FURTHER SEGREGATE AMENDMENT 7 AND AMENDMENT 21 TO BE discussed separately. The motion CARRIED UNANIMOUSLY on oral vote.

Motion: SEN. MILLER MOVED AMENDMENT 7 BE CONCURRED IN.

Discussion: SEN. BENEDICT asked SEN. KLAMPE if Title 2, Chapter 15, referred to the Board of Dentistry and SEN. KLAMPE stated it did.

SEN. BENEDICT asked if the Board of Dentistry regulated the licensure of out-of-state applicants and SEN. KLAMPE answered the Board of Dentistry regulated the licensure by having out-of-state applicants take tests.

SEN. BENEDICT asked if the Board of Dentistry issued temporary practice permits. SEN. KLAMPE stated they may.

SEN. BENEDICT asked why there would be a problem with leaving "shall" in the language on licensure of out-of-state applicants and temporary practice permits. SEN. KLAMPE stated there was an ambiguity with leaving "shall" in the language. He said when the word "shall" was followed by discretionary language, an ambiguity was created. He asserted the boards should have the power to make decisions. He related this would allow the Board of Dentistry to allow other dentists to come in from every state in the country.

**SEN. BENEDICT** commented the amended language would read that a board shall issue a license to practice without examination to a person licensed in another state if the board determined the other state's license standards, at the time of application to this state, were substantially equivalent to the standards in this state. He conveyed there was no reason to deny the license under the laws of this state governing the profession or occupation. He related this would give the boards the power to streamline the process and eliminate duplicity. **SEN. KLAMPE** stated the way to give power to the board was to use the word "may". He alleged the word "shall" mandates.

**SEN. MIKE SPRAGUE** commented the board could run into problems if a doctor from another state applied and there was some question of his record. He stated if he was currently licensed, he could still be under review and decide to leave that state. He stated would the board have the discretion of denying him access to this state as a place to practice if the word "shall" was left in the language?

**SEN. BENEDICT** stated the language was quite clear when it said "and there was no reason to deny the license under the laws of this state governing the profession or occupation." **Lance Melton** told the committee to refer to page 4, section 4, lines 14-16. He said this stated the license may not be issued until the board received verification from the state or states in which the person was licensed if the person was currently licensed and was not subject to pending charges or final disciplinary action for unprofessional conduct or impairment. He commented the only problem would be if there were consumer complaints which had not been investigated or determined.

**SEN. EMERSON** asked if using the word "may" would give the board the power to discriminate for any reason. **SEN. KLAMPE** stated the boards were set up in the best interests of the state.

**SEN. BENEDICT** stated that he served as Chairman of the House Business Committee in the last session. He told the committee one of the boards which went outside the scope of legislative intent was the Board of Dentistry.

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**CHAIRMAN JOHN HERTEL** stated the vote would be a do pass on amendment 7 which would put the word "may" into the bill.

**Vote:** The motion **FAILED 6-3** on roll call vote (#1).

**Motion:** **SEN. BENEDICT MOVED AMENDMENT 21 BE CONCURRED IN.**

Discussion: SEN. BENEDICT stated this was in current statute.

SEN. WILSON stated the sponsor commented that it was an oversight that it was stricken from the bill originally. He said it should be reinserted into the bill.

SEN. SPRAGUE asked for clarification of the amendment. He believed they would be telling an employment agency, which would be an independent business set up to create employment, to be sensitive to turf battles in the labor world. He thought this seemed an unrealistic requirement.

SEN. BENEDICT stated there had been times when they had not had the opportunity to take bad laws off the book. He explained that was why he opposed this amendment.

Vote: The motion FAILED 6-3 on roll call vote (#2).

Motion/Vote: SEN. BENEDICT MOVED HB 518 BE CONCURRED IN AS AMENDED. The motion CARRIED 7-2 on oral vote with SEN. FORRESTER and SEN. WILSON voting "NO". SEN. HERTEL will carry the bill on the Senate floor.

#### EXECUTIVE ACTION ON HB 574

Discussion: Mr. Campbell explained there were two sets of amendments. SEN. WILSON's amendments replaced everything the House floor amendments removed with respect to the first right of refusal. SEN. EMERSON's amendments were a lot like SEN. WILSON's with the exception of making this a true first right of refusal wherein the public would be bidding at the beginning and the employees had the right to match. He claimed the only difference would be amendment 9, at the bottom of page 2, where it stated "any person or entity . . . may file an application."

Motion: SEN. EMERSON MOVED TO AMEND HB 574, AMENDMENT HBO7402.ABC.

Discussion: SEN. EMERSON stated his intent was that the board not allow a second bid to lower the bid.

Mr. Campbell stated that since the bill was so complex, the early sections of the bill may not fit in with this amendment.

SEN. WILSON commented that Section 6 of SEN. EMERSON's amendments stated any person or entity would be allowed to make a bid. He related it would appear to him this would be opened up to anyone who had the resources. He asserted someone with deep pockets could throw the current store manager out of the process. Mr. Campbell stated the two different sets of amendments were very different.

**SEN. SPRAGUE** stated the bill had no state employee preference. He conveyed those amendments would put back a first right of refusal. He stated this was not as good a preference, but it did keep the employee in the game. He said it would give a state employee bidding opportunity as well as first right of refusal to meet the bid.

**Mr. Campbell** commented he understood **SEN. EMERSON's** intent and he tried to incorporate that into the bill as best as possible. He related the problem was the bill was created for the state to divest itself from participation in the system. He maintained one concern, if **SEN. EMERSON's** amendment was adopted with open bid process, was how would that effect Section 3? Section 3 stated after the selection of an agent pursuant to (6) who was an eligible state employee or a business entity of the state employee . . . The entire section went to state employees who won the bid. His concern was the due process involved in (6).

**SEN. SPRAGUE** stated this seemed to be a state employee preference in the bidding process. He declared if he were an individual who was not a state employee, he would not have the same terms and conditions in the bidding process as his opponent. He would be even more cautious because he would be assuming a large inventory and had to pay interest on it. **Gary Blewett, Department of Revenue**, commented the new Section 6 would open this to everyone. He conveyed there would then be an opportunity for the employee to say they would match it. He alleged, assuming the employee ended up with the bid, the new Section 3 on page 1 would be in effect. He maintained if an employee did not match the low bid, Section 3 would be inoperative. He contended the bidder had to meet whatever terms the Department would set up.

**SEN. MILLER** asked **Mr. Blewett** how he perceived the bidding process. **Mr. Blewett** stated there was a problem with the layering issue. He thought 45 days was a very short time for soliciting bids. He would like that changed to a longer period of time.

**Mr. Campbell** pointed out that on page 5, the **SEN. EMERSON** amendment would strike (3) because that would put a limit on the commission of state employees. **Mr. Blewett** stated that would be no more than clarification language. He said there was language elsewhere which stated if the population of a community was under 3,000, the commission rate was fixed at 10%. He expressed under those provisions, the Department of Administration's request for a bid was a request for a proposal. He maintained price would not be a factor.

**SEN. BENEDICT** stated he agreed with **SEN. EMERSON's** amendments. Looking at **SEN. WILSON's** amendments, he saw there was an absolute preference for state employees which didn't relate to only the employees who ran the store. He contended the only ones who would be able to bid initially would be state employees. He explained if no one placed a bid in 45 days, it would then be

open to the public. **SEN. WILSON** stated if no one bid in the 45 day time frame, it would be open to people in the city and then to the public.

**SEN. EMERSON** stated his amendments would reflect the purpose of a true right of first refusal. He declared this would allow the state to get the best price they could get. He professed a total preference for employees may be costly to the state. .

**SEN. SPRAGUE** stated he was not sure that state employees saw their advantage. He related they had a tremendous advantage over an outside bidder. He thought there was a possibility that a frugal investor could position a state employee to front for him. He alleged the state employee could purchase the store and within 30 days sell it to someone else for the difference.

**SEN. KLAMPE** commented the people who worked out this deal did not have the true right of first refusal in mind. He thought employees should have the advantage.

**SEN. MILLER** stated the House originally tabled this bill because of the original language. He thought there was a good possibility it would be tabled again. He told the committee **SEN. EMERSON's** amendments may get this bill through.

**SEN. EMERSON** commented they needed to treat the state employees fairly as well as see to it that the state received a reasonable price.

**Vote:** The motion **CARRIED 5-4** on roll call vote (#3).

**Substitute Motion:** **SEN. WILSON** MOVED TO FURTHER AMEND HB 574.  
(AMENDMENT HB057401.ABC)

**Discussion:** **SEN. MILLER** stated they had given another advantage to the stores which they did not have before. He contended they could charge more for their retail package liquor.


**Vote:** The substitute motion **FAILED** on roll call vote (#4).

**Motion/Vote:** **SEN. BENEDICT** MOVED HB 574 AS AMENDED BE CONCURRED IN. The motion **CARRIED 6-3** on roll call vote (#5). **SEN. MILLER** will carry the bill on the Senate floor.



ADJOURNMENT

**Adjournment:** The meeting adjourned at 10:50 a.m.

  
SEN. JOHN HERTEL, Chairman

  
LYNETTE LAVIN, Secretary

JH/11

MONTANA SENATE  
1995 LEGISLATURE  
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL

DATE \_\_\_\_\_

3-22-95

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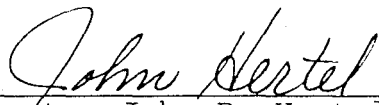
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 22, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration HB 488 (third reading copy -- blue), respectfully report that HB 488 be amended as follows and as so amended be concurred in.

Signed:   
Senator John R. Hertel, Chair

That such amendments read:

1. Page 3, lines 10 and 11.

Strike: "the credit" on line 10 through "guidelines" on line 11

Insert: "the insurer possesses substantial documentation that  
credit history is significantly correlated with the types of  
risks insured or to be insured"

2. Page 3, line 12.

Strike: "the reason"

3. Page 3, line 13.

Following: "benefits"

Insert: "because of credit information relating to the applicant  
or the insured"

4. Page 3, line 15.

Following: "of the individual,"

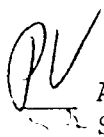
Insert: "mailed within 10 days of receipt of the denial,  
nonrenewal, or limitation,"

5. Page 3, line 16.


Following: "issue"

Insert: " or the name and address of a third party from whom the  
individual may obtain a copy of the credit report,"

-END-



Amd. Coord.  
Sec. of Senate

  
Senator Carrying Bill

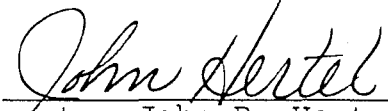
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SENATE STANDING COMMITTEE REPORT

Page 1 of 5  
March 22, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration HB 518 (third reading copy -- blue), respectfully report that HB 518 be amended as follows and as so amended be concurred in.

Signed:   
Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 9.

Following: " ; "

Insert: "ELIMINATING THE HERITAGE OF MONTANA ENTERPRISE ACT ;"

Following: "SECTIONS"

Insert: "17-7-502, "

2. Title, line 22.

Following: "SECTIONS"

Insert: "20-26-1401, 20-26-1402, 20-26-1403, 20-26-1404, 20-26-1407, 20-26-1408, 20-26-1409, 20-26-1410, 20-26-1411, "

3. Page 3, line 5.

Strike: "should"

Insert: "must"

4. Page 4, line 8.

Following: "regulates."

Insert: "The provisions of this chapter must be construed to supplement the statutes relating to a specific board and the profession it regulates. The method for initiating and judging a disciplinary proceeding, specified in [section 7(1)(e)], must be used by a board in all disciplinary proceedings involving licensed professionals."

5. Page 6, line 24.

Strike: "8"

Insert: "7"

6. Page 6, line 25.


Following: "violator"

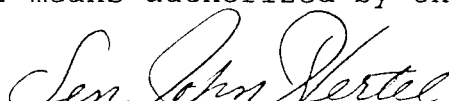
Insert: ". The notice may be served"

7. Page 6, line 26.

Following: "board"

Insert: "or by other means authorized by the Montana Rules of

  
Amd. Coord.  
Sec. of Senate

  
Senator Carrying Bill

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Civil Procedure"

8. Page 7, line 1.

Strike: "service"

Insert: "the licensee's receipt"

9. Page 7, line 6.

Following: "~~Evidence~~"

Insert: "; the Montana Rules of Civil Procedure; and the Montana Rules of Evidence"

10. Page 7, line 9.

Following: "decides"

Insert: "by a preponderance of the evidence"

11. Page 9, line 24.

Strike: ", whether"

Insert: "if"

12. Page 9, line 25.

Following: "is"

Insert: "not"

13. Page 10, lines 22 through 25.

Strike: subsection (18) in its entirety

Renumber: subsequent subsection

14. Page 11, line 28.

Insert: " **Section 20.** Section 17-7-502, "MCA, is amended to read:

**"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-106;

17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101;  
17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709;  
19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513; 19-18-606;  
19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361;  
~~20-26-1403~~; 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409;  
23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206;  
32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321;  
39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150;  
53-24-206; 60-2-220; 61-2-107; 67-3-205; 75-1-1101; 75-5-507;  
75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222;  
80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220;  
85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-9-306; and  
90-14-107.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates July 1, 1995.) "

Renumber: subsequent sections

15. Page 12, line 20.

Strike: "."

Insert: ";

16. Page 12, line 21.

Insert: "(8) issue a notice to and pursue an action against a licensed individual, as a party, before the licensed individual's licensing board after a finding of reasonable cause by a screening panel of the board pursuant to [section 7(1)(e)]."

17. Page 70, lines 24 and 25.

Strike: "The" on line 24 through "licensees" on line 25

Insert: "Except as provided in 37-51-302, the board may not require examinations of licensees"

18. Page 84, line 22.

Following: "Sections"

Insert: "20-26-1401, 20-26-1402, 20-26-1403, 20-26-1404, 20-26-

1407, 20-26-1408, 20-26-1409, 20-26-1410, 20-26-1411,"

19. Page 85, line 20.

Following: "37-16-202"

Insert: "and 37-16-407"

20. Page 85, line 21.

Strike: "58"

Insert: "59"

Following: "VOID"

Insert: "and [section 61 of this act], amending 37-16-407, is  
void"

21. Page 85, line 22.

Strike: "A SECTION"

Insert: "sections"

22. Page 85, line 23.

Strike: "AMENDS"

Insert: "amend"

Strike: "127"

Insert: "128"

23. Page 85, line 23 in two places.

Following: "37-16-406"

Insert: "and 37-16-411"

24. Page 85, line 25.

Strike: "AND"

Insert: ", "

Following: "37-11-309,"

Insert: "37-11-320, and 37-11-321,"

Strike: "127"

Insert: "128"

25. Page 85, line 26.

Strike: "AND"

Insert: ", "

Following: "37-11-309"

Insert: ", 37-11-320, and 37-11-321"

26. Page 85, line 27.

Insert: "(4) If House Bill No. 148 is passed and approved and if  
it includes sections that amend 37-67-312, 37-67-313, and  
37-67-331, then the portion of [section 128] that repeals  
37-67-312, 37-67-313, and 37-67-331 is void.

(5) If House Bill No. 196 is passed and approved and if it  
includes sections that amend 37-47-341 and 37-47-343, then the

portion of [section 128] that repeals 37-47-341 and 37-47-343 is void.

(6) If Senate Bill No. 224 is passed and approved and if it contains a section that amends 37-51-321, then the portion of [section 128] that repeals 37-51-321 is void."

27. Page 86, line 12.

Strike: "20"

Insert: "21"

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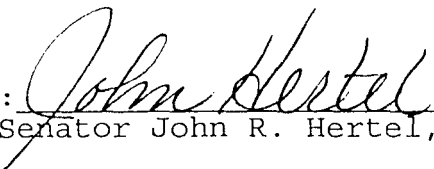


SENATE STANDING COMMITTEE REPORT

Page 1 of 4  
March 22, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration HB 574 (third reading copy -- blue), respectfully report that HB 574 be amended as follows and as so amended be concurred in.

Signed: 

Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 10.

Following: "~~STORES,~~"

Insert: "PROVIDING THAT ELIGIBLE STATE LIQUOR STORE EMPLOYEES  
HAVE A RIGHT OF FIRST REFUSAL IN BECOMING AGENTS FOR THE  
CONVERTED STORES;"

2. Page 2, lines 3 and 7.


Strike: "6"


Insert: "8"

3. Page 2, line 25.

Insert: "NEW SECTION. Section 3. Purchase of initial inventory  
and trade fixtures from former state liquor store. (1)

After the selection of an agent pursuant to [section 6] who was an eligible state employee or a business entity consisting of eligible state employees to operate an agency liquor store that is operating as a state liquor store, the person or entity selected as agent and the department of revenue shall agree upon a date of conversion from a state liquor store to an agency liquor store. The date must be between July 1, 1995, and December 1, 1995. As of the day before the conversion date, the department shall calculate a closing statement showing the dollar amount of inventory on hand and the dollar amount of any trade fixtures that the agent chooses to purchase. As soon as practical thereafter, the department shall send to the agency liquor store a statement for the total price of the inventory and trade fixtures, payable in 16 even monthly payments. The price of liquor must be calculated in the same manner as the price for liquor purchased by an agency liquor store under the provisions of 16-2-101. Trade fixtures must be valued by the department as the amount, if any, in excess of the fixtures' depreciated value. The first payment is due 60 days from the date on which the department mails the statement, and each subsequent payment is due on the last day of the month for each month thereafter. At any time after payment of the

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 Sec. of Senate

  
Senator Carrying Bill

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first payment, an agent may pay in full the amount due or may increase the amount of each monthly payment. The payment of increased payments does not waive the making of a monthly payment until the initial purchase price is fully paid.

(2) Any shortages due the state as of the date of conversion must be paid by the store manager if the store manager becomes the liquor store agent or is a partner or shareholder in a business selected as the liquor store agent. The manager shall make payment within 30 days of notice of the amount due."

Renumber: subsequent sections

4. Page 3, line 19.

Strike: "SECTION 2"

Insert: "either [section 2] or [section 3]"

5. Page 3, line 26.

Following: "and"

Insert: "preference rights and"

6. Page 3, line 28.

Strike: "6"

Insert: "8"

7. Page 4, lines 1, 9, and 27.

Strike: "6"

Insert: "8"

8. Page 4.

Following: line 25

Insert: "(2) (a) Notwithstanding any other provision of law, an employee of a state liquor store who meets the requirements of an eligible state employee must be given the right of first refusal for selection of the agent chosen to operate an agency liquor store.

(b) The department's selection criteria in order of priority for selecting an agent for employee-operated state liquor stores to be converted to agency liquor stores are as follows:

(i) The applicant must be either an eligible state employee who is an employee of the store, a partnership with a majority of the partners qualifying as eligible state employees and a majority of the partners working as employees of the state liquor store, or a corporation with at least one shareholder who is an eligible state employee and is an employee of the store.

(ii) If no applicant meets the requirements of subsection (2) (b) (i), the applicant must be either an eligible state employee and an employee of another state liquor store in the same city or town, a partnership with a majority of the partners

qualifying as eligible state employees and employees of another state liquor store in the same city or town, or a corporation with at least one shareholder who is an eligible state employee and is an employee of another state liquor store in the same city or town.

(iii) If no applicant meets the requirements of subsection (2)(b)(i) or (2)(b)(ii), the state agent must be selected by the methods required by the department of administration."

Renumber: subsequent subsection

9. Page 4, line 30.

Insert: "NEW SECTION. **Section 6. Conversion of existing state-operated liquor stores.** (1)(a) Within 45 days of [the effective date of this section], any person or entity, an eligible state employee, or a business entity consisting of eligible state employees, as referred to in [section 5(2)(b)(i)], may file an application or applications to operate as an agency liquor store the liquor store in which the eligible state employee or the employees of the business entity consisting of eligible state employees are employed or to operate as an agency liquor store another liquor store in the same community in which the eligible state employee or employees of the business entity consisting of eligible state employees are employed.

(b) The application must set forth the nature of the entity applying for the agency franchise agreement and the employee's or employees' preference rights, if any, along with any other information that the department of revenue requires.

(2)(a) If the employee or a business entity consisting of eligible state employees is the sole applicant, the department shall enter into an agency franchise agreement with either the employee or the business entity to operate the agency liquor store.

(b) If more than one person or entity or more than one eligible state employee or business entity consisting of eligible state employees applies to be the agent for the liquor store, the department shall use the appropriate competitive bidding procedures to select the agent. However, if eligible state employees or a business entity consisting of eligible state employees matches the bid of any other person or entity, the franchise must be awarded to the eligible state employees or business entity consisting of eligible state employees.

(3) For purposes of this section, an eligible state employee is considered to be an employee of the state liquor store in which the eligible employee worked a majority of the hours between July 1, 1994, and January 6, 1995.

(4) Until converted to an agency liquor store, a state liquor store shall operate under the laws governing the operation

of state liquor stores as those laws read on January 1, 1995."  
Renumber: subsequent sections

10. Page 6, line 4.

Strike: "7"

Insert: "9"

11. Page 6, lines 8 and 9.

Strike: "6"

Insert: "8"

12. Page 6, lines 19 and 21.

Strike: "ACT"

Insert: "section"

13. Page 36, lines 3 and 5.

Strike: "7 and 8"

Insert: "9 and 10"

14. Page 36, line 11.

Strike: "24"

Insert: "26"

15. Page 36, line 11.

Strike: "37"

Insert: "39"

-END-

MONTANA SENATE  
1995 LEGISLATURE  
BUSINESS AND INDUSTRY COMMITTEE  
ROLL CALL VOTE

DATE 3-22-95 BILL NO. HB 518 NUMBER 1

MOTION: \_\_\_\_\_

BCI amendment #7

HB 051801. ABC

NAME	AYE	NO
STEVE BENEDICT, VICE CHAIRMAN		✓
WILLIAM CRISMORE		✓
CASEY EMERSON		✓
GARY FORRESTER		✓
TERRY KLAMPE	✓	
KEN MILLER		✓
MIKE SPRAGUE	✓	
BILL WILSON	✓	
JOHN HERTEL, CHAIRMAN		✓
(motion failed - will omit #7 from amendments)		

SEN:1995  
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BUSINESS AND INDUSTRY COMMITTEE  
ROLL CALL VOTE

DATE 3-22-95 BILL NO. HB 518 NUMBER 2

MOTION:

BCI amendment #21. HB 051801. ABC

NAME	AYE	NO
STEVE BENEDICT, VICE CHAIRMAN		✓
WILLIAM CRISMORE		✓
CASEY EMERSON		✓
GARY FORRESTER	✓	
TERRY KLAMPE	✓	
KEN MILLER		✓
MIKE SPRAGUE		✓
BILL WILSON	✓	
JOHN HERTEL, CHAIRMAN		✓
(motion failed - will omit #21 from amendments)		

SEN:1995  
wp:rlclvote.man  
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MONTANA SENATE  
1995 LEGISLATURE  
BUSINESS AND INDUSTRY COMMITTEE  
ROLL CALL VOTE

DATE 3-22-75 BILL NO. HB 574 NUMBER 3

MOTION:

BCI Sen. Emerson's Amendments (HBO 57402.ABC)

NAME	AYE	NO
STEVE BENEDICT, VICE CHAIRMAN	✓	
WILLIAM CRISMORE		✓
CASEY EMERSON	✓	
GARY FORRESTER		✓
TERRY KLAMPE		✓
KEN MILLER	✓	
MIKE SPRAGUE	✓	
BILL WILSON		✓
JOHN HERTEL, CHAIRMAN	✓	
(Motion passed to BCI Sen. Emerson's amendments)		
5 AYES to 4 NO'S		

SEN:1995  
wp:rlclvote.man  
CS-11

MONTANA SENATE  
1995 LEGISLATURE  
BUSINESS AND INDUSTRY COMMITTEE  
ROLL CALL VOTE

DATE 3-22-95 BILL NO. HB 574 NUMBER 4

MOTION: \_\_\_\_\_

Substitute motion: BC1 Sen. Wilson's Amendments  
HB 057401. ABC

[illegible]

SEN:1995  
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BUSINESS AND INDUSTRY COMMITTEE  
ROLL CALL VOTE

DATE 3-22-95 BILL NO. 4B 574 NUMBER 5

MOTION: \_\_\_\_\_

AB 574 Be Concurred In As Amended

[illegible]

SEN:1995  
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