

**MINUTES**

**MONTANA SENATE  
55th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON BUSINESS & INDUSTRY**

**Call to Order:** By **CHAIRMAN JOHN HERTEL**, on January 24, 1997, at  
9:00 A.M., in ROOM 410

**ROLL CALL**

**Members Present:**

Sen. John R. Hertel, Chairman (R)  
Sen. Steve Benedict, Vice Chairman (R)  
Sen. Debbie Bowman Shea (D)  
Sen. William S. Crismore (R)  
Sen. C.A. Casey Emerson (R)  
Sen. Bea McCarthy (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Bart Campbell, Legislative Services Division  
Mary Gay Wells, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 147, SB 148; 1/13/97  
SB 192; 1/20/97  
Executive Action: None

*{Tape: 1; Side: A; Approx. Time Count: 9:02 AM; Comments: N/A.}*

**HEARING ON SB 147**

**Sponsor:** SENATOR AL BISHOP, SD 9, BILLINGS

**Proponents:** Dean Roberts, Department of Justice, Motor Vehicle  
Division

**Information Testimony:** Jacqueline Lenmark, American Insurance  
Assoc.

**Opponents:** None

**Opening Statement by Sponsor:**

**SENATOR AL BISHOP, SD 9, BILLINGS.** I would like to present SB 147. I have a number of amendments that I will get to the committee as soon as possible. I will run through the bill now. On line 12, the fine will be "not to exceed \$250". Strike line 13 in its entirety. Strike lines 14 through 16 also. There isn't much point in putting people in jail for non-compliance with the required insurance laws. If you allow the impounding of a vehicle, they will have to prove when they get their vehicle out of impoundment, that they have insurance, prepaid for six months (shown on Page 2, line 2, somewhat amended, striking all of line 17 through 26 because we won't need it because at the end of the 90 day period they won't need to show proof of insurance when they pick up their plates and registration). Also, strike line 7 on Page 2. The auditor who is the ex-officio commissioner of insurance has to approve all forms of insurance policies, and insurance companies are not allowed to cancel a policy within a six-month period. If we don't do something about the law, we might as well repeal the whole mandatory insurance law.

**Proponents' Testimony:**

**Dean Roberts, Dept. of Justice, Motor Vehicle Division.** The part of the bill we like is the fact that you have to show proof of insurance before you get your vehicle back. I am here to answer any questions about the program, numbers, etc.

**Informational Testimony:**

**Jacqueline Lenmark, American Insurance Assoc.** I do not stand as an opponent, but simply to provide the committee with some information, especially as it pertains to one of the amendments. The bill specifies that the insurer may not cancel the policy and must give a certified statement that it will not be cancelled. The Montana Insurance Code already prohibits mid-term cancellation of policies by the insurer--not the insured. You may want to look at that section of code. I would refer the committee to 33-15-1103 as you are looking at the amendments that are being proposed.

**Opponents' Testimony:** None**Questions From Committee Members and Responses:**

**SEN. STEVE BENEDICT** thought that it looks like, with the amendments, the bill will lower the discretionary fine. **SEN. BISHOP** stated that is correct. The maximum now will be \$250. The second and third offense variations are out of the bill. **SEN. BENEDICT** did not see a provision in the bill, and it may be in current law in another area, that says if you inadvertently don't have your certificate in the vehicle, you may go to the judge and furnish proof of insurance and the ticket and fine will be dropped. **SEN. BISHOP** thought that would be the case--like a

fishing license. **SEN. BENEDICT** asked why a six-month paid up policy time frame was chosen. He said that they paid their insurance every three months. **SEN. BISHOP** responded that his policy is paid on a monthly basis. It would only be a one-time thing, if you paid the first six months then you could pay on a monthly basis after that. But he would defer to the committee if they could come up with a better time frame. But this is an important point, because the Motor Vehicle Dept. wants them to show a six-month paid policy when they pick up their vehicle.

**Mr. Dean Roberts** was asked to respond to the question of not having the proof of insurance in the vehicle. He stated Corrective 616-302 which is a given section of the statute, still allows you to go to the judge and show him the proof and the ticket would be dismissed.

**SEN. DEBBIE SHEA** asked for clarification on the six-month paid up insurance. She thought this was meant only for someone who had been convicted. **SEN. BISHOP** replied that was correct--not for everyone.

Closing by Sponsor:

**SEN. BISHOP** closed. It is a simple bill and I will see that these amendments I am proposing will be brought to you as quickly as possible. Something must be done to either get people insured or drop the whole thing if the law cannot be enforced.

{Tape: 1; Side: A; Approx. Time Count: 9:18 AM; Comments: N/A.}

HEARING ON SB 148

Sponsor: SENATOR AL BISHOP, SD 9, BILLINGS

Proponents: Steve Malloy, Bureau Chief, Professional &  
Occupational Licensing Bureau  
Jerry Driscoll, MT Building & Construction Trades  
Council  
A. Farrell Rose, MT Board of Real Estate  
Appraisers  
Ron Van Diest, Electrical Assoc.  
Dr. Donald Nordstrom, Board of Dentistry  
Rose Hughes, MT Health Care Assoc.  
Tom Olsen, MT Dental Hygienist Assoc.  
Mona Jamison, Physical Therapist  
Dr. Gerald Olson, MT Dental Assoc.  
SEN. WILLIAM GLASER, SD 8, HUNTLEY  
Dr. Tim Frank, retired dentist  
REP. CARLEY TUSS, HD 46, GREAT FALLS

Opponents: None

**Opening Statement by Sponsor:**

**SENATOR AL BISHOP, SD 9, BILLINGS.** It is a simple bill. This bill will establish reciprocity as a condition for issuing a professional or occupational license to a person licensed in another state. **Steve Malloy**, Bureau Chief of the Professional and Occupational Licensing Bureau, will be available for questions. They have proposed an amendment (**EXHIBIT 1**).

**Proponents' Testimony:**

**Jerry Driscoll, MT Building & Construction Trades Council.** I asked **SEN. BISHOP** to put the plumbers in to help the electricians and this is the way the bill came out. The amendment makes it optional for the boards. We need the reciprocity. It was a mistake when it was repealed in HB 518 in last session. So we ask for a Do Pass with the amendment.

**A. Farrell Rose, MT Board of Real Estate Appraisers.** I am in support of the bill and submit written testimony (**EXHIBIT 2**).

**Ron Van Diest, member, Electrical Board.** I come in support of the bill as amended. This will allow the Board to accept licenses from other states. This will also allow Montanans to work in other states without having to obtain that state's license. (**EXHIBIT 3**)

**Dr. Donald Nordstrom, Chairman, Board of Dentistry.** The bill as originally presented would not have been good for our Board. We would support the bill with the amendments.

**Rose Hughes, Executive Director, MT Health Care Assoc.** The bill in its original form was too restrictive for reciprocity and we're opposed to that, but we saw the amendment just a short time ago and the amendment does address our concerns except that there is some additional language that you might want to look at. My work with boards tells me that if the language is not exceptionally clear, you don't know where the boards are going to land. Two concerns are: (1) in the amendment that reads "if the license applicant has substantially different qualifications", substantially different could mean substantially less or more. Obviously it would be an unintended result if someone who had more qualifications than Montana required would not be allowed in. It might seem ridiculous, but I have seen boards take actions that some of us would think are ridiculous. (2) the amendment also reads "the agreement shall not permit out-of-state licensees to obtain a license within this state", we might want to state "obtain a license through reciprocity". They can obtain a license if they go through some other procedure but you are not going to give it to them through reciprocity.

**Tom Olsen, MT Assoc. of Dental Hygienists.** We support the bill as amended and welcome **Ms. Hughes** comments that the clarification

of language she requested would make the bill more clear. The clearer, the better.

**Mona Jamison, representing Physical Therapists of Montana.** We support the bill as amended and further proposed to be amended by **Rose Hughes.**

**Dr. Gerald Olson, MT Dental Assoc., Havre.** We would also like to promote this bill as amended as it addresses our concerns of allowing the Board of Dentistry greater freedom in working toward substantial credentialing throughout the U.S. and Montana.

**SEN. WILLIAM GLASER, SD 8, YELLOWSTONE CO. AREA.** A letter (EXHIBIT 4), has been given to the committee written by **Richard D. Zier, President, Yellowstone Electric Co.** This letter shows his reason for this bill and his support of it.

**Dr. Tim Frank, retired Air Force dentist, Great Falls.** I stand in support of this bill as amended. I came to advocate licensures by credentials and reciprocity. It is the growing trend in the U.S. Thirty-three states have it now.

**REP. CARLEY TUSS, HD 46, GREAT FALLS.** It was my piece of legislation in 1995 that led to this little problem that we are now experiencing. Prior to that time reciprocity was the standard way of guaranteeing a person with a license could move from state to state. We thought there was a better way and that endorsement was better across the board because that way the letters did not have to be constantly updated. We came to realize that was a good approach for a number of licenses but it was not a good approach for plumbers and electricians and for that reason I would ask for your support in this bill.

Opponents' Testimony: None

{Tape: 1; Side: A; Approx. Time Count: 9:34 AM; Comments: N/A.}

Questions From Committee Members and Responses:

**SEN. STEVE BENEDICT** submitted wording for the amendment, Section 3. It would read "The agreement shall not permit out-of-state licensees to obtain a license (through reciprocity) within this state if the license applicant has substantially (sub-standard qualifications) as determined by the board on a case-by-case basis. **SEN. BISHOP** asked **Carol Grell, Staff Attorney, Department of Commerce** to respond. She stated that the amendment was offered by **POL** and **Steve Malloy** and the changes discussed would be acceptable.

**SEN. CASEY EMERSON** stated that in Montana we have a journeyman's license and a masters license. In Idaho there is no such thing as a masters license. Since we have different names in different states, do you think the board will look at the preparation or the training and make a proper decision in this because of the

differences in names? **Mr. Van Diest** responded that yes, we do that on a quarterly basis. Whenever an application comes in we review the other state's requirements for licensing and compare them to Montana.

**SEN. BEA MCCARTHY** stated that most of the groups that are being discussed here are trade groups that would carry their licenses. Your group, **Mr. Rose**, takes a test that is based in some respects on state law. How would you justify what we are doing if people come in with reciprocity from California if they have not had that particular course? **Mr. Rose** stated that it is a federally mandated test and there is some state law, but it is mainly mandated by the Feds. The tests are fairly standard from state to state. I don't believe this has been a problem in the past.

**SEN. DEBBIE SHEA** asked if **Rose Hughes** could make further comments on the proposed amendment and wording. **Ms. Hughes** suggested several amendments and would be willing to work with the sponsor to clarify the language and make this a very good bill.

Closing by Sponsor:

**SEN. BISHOP** closed. Thank you for a good hearing especially with no opponents. I will work with **Rose Hughes** and get the amendments to you right away.

{Tape: 1; Side: B; Approx. Time Count: 9:58 AM; Comments: N/A.}

HEARING ON SB 192

Sponsor: SENATOR THOMAS KEATING, SD 5, BILLINGS

Proponents: Mary McCue, MT  
Dr. Gerald W. Olson, MT Dental Assoc.  
Tom Olsen, MT Dental Hygienists Assoc.

Opponents: None

Opening Statement by Sponsor:

**SENATOR THOMAS KEATING, SD 5, BILLINGS.** In dental practice, it is unique because a dentist owns a business in the sense that his patients' records are fairly constant and he has built up a business and if he should wish to retire, he invites a licensed dentist to participate until he can sell the business and retire. This business has a value. If a dentist should die suddenly, the family is prohibited by law from owning that practice. It is a business that can be owned except that the law prohibits the widow from owning the business--only a licensed dentist can own the business/property. What this bill does would be to let the widow or a representative of the estate or a representative of a disabled dentist own the property for a period of 12 months. The business then can be continued by utilizing another licensed

dentist to run the practice and then the representative can make arrangements to dispose of the practice and the financial value of that practice can go into the estate for the family of the deceased or disabled dentist. The other amendments within the bill merely change some of the other parts of the law which restrict the handling of the practice strictly to the dentist or in defining dentist. They say a dentist is anyone who hangs out a shingle, except in this case we are exempting a personal representative of the deceased or disabled dentist. In the other sections, they are merely amendments in the law to provide for the exception of the personal representative in either case. The exception for the personal representative only lasts 12 months. We don't want to end up with corporations owning dental businesses. This bill does solve a problem that has been going on for quite sometime. I would ask that you listen to the testimony and hope that you can give approval to this proposal.

#### Proponents' Testimony:

**Mary McCue, Lobbyist for MT Dental Assoc.** There is a provision in the Dentist Practice Act that defines what the practice of dentistry is. One of those subsections includes language that says: "practice in dentistry means owning, managing and operating a dental clinic". There is another statute that says: "only a person who is licensed may practice dentistry". Several years ago there was a dentist who passed away who had not made provisions for passing on his estate. His spouse approached the Board of Dentistry and sought a declaratory ruling from the Board interpreting this language. The question she was asking is: "May I own this practice for a very brief time so that I may wind it down or sell it or close it." In January, 1994, the Board issued this declaratory ruling that interpreted those two statutes and they came to the conclusion that the spouse could not own that practice for any period of time because only a dentist may own a practice in Montana. **SENATOR KEATING**, therefore, has brought this bill before you at the request of one of his constituents. The Dental Assoc. which is comprised of more than 90% of the dentists in Montana, strongly support this legislation. The bill has been crafted very narrowly which is how they want it to be.

There are two technical issues that I would like to raise with you. I have talked to **Bart Campbell** about these. On Page 5, Subsection 3 (b), which is a defining section, it says "'disabled' has the same meaning as provided for the term in 15-30-111". I should have caught this before, but disabled is not defined in that statute. There is some kind of typographical error that we need to get fixed. Also, in Subsection 3 (c) it says "'personal representative' has the same meaning as provided for the term in 72-1-103". When we are talking about personal representative, that code section talks about the probate code which talks about when a dentist is deceased. So I believe there needs to be a phrase there that says when we are talking about the deceased dentist, "personal representative" has the meaning as in the probate code. We might want to use a different term

when we are talking about the disabled dentist, possibly "guardian".

**Dr. Gerald W. Olson, Havre, MT Dental Assoc.** We were asked initially and have been somewhat involved in the formation of this bill. We appreciate the efforts of **SENATOR KEATING** and the formatting of the bill. We have had several problems throughout the state that this bill addresses and this piece of legislation is needed. From all but one district of the Board of Dentistry, this bill has received support. That one district was concerned that the bill might open the door for corporate dentistry here in Montana. We believe, though, that the bill has been written very narrowly and that this will not create a problem.

**Tom Olsen, MT Dental Hygienist Assoc.** MDHA supports SB 192 because the intent of the bill is to provide for the continuation of a dental practice. However, within the business structure of a dental practice, there are other people employed: hygienists, receptionists, technicians, etc. We feel that certain language within the bill at this time allows for the elimination of negotiated terms of employment. By allowing a temporary supervising dentist to dictate new terms of employment, this could well be disruptive to the practice but could also result in the loss of goodwill and revenue. We believe the language in Subsection 2 (c) and (d) is contrary to the intent of the legislation which is to allow the spouse of the dentist to operate the practice during the winding down period. We believe this may be unfair to the employees and possibly detrimental to the dental practice itself. We recommend that Subsection 2 (c) read "allow any person other than a dentist to supervise". We recommend that Subsection 2 (d) be deleted in its entirety.  
(EXHIBIT 5)

Opponents' Testimony: None

{Tape: 1; Side: B; Approx. Time Count: 10:15 AM; Comments: N/A.}

Questions From Committee Members and Responses:

**SEN. CASEY EMERSON** asked if we didn't run into the same sort of thing with a chiropractor as with a dentist? **Dr. Olson** replied that the nature of their practice would be very similar. **SEN. EMERSON** asked if 12 months is sufficient time for the winding down or sale of the practice? **Dr. Olson** replied, yes. **SEN. EMERSON** then asked if the law stops a dentist from owning a practice and hiring other dentists to work with or for him? **Dr. Olson** replied that no, the law does not do that. If one dentist owns the practice, all the other dentists must have a Montana license to practice dentistry.

Closing by Sponsor:

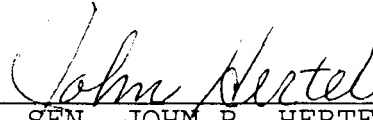
**SEN. KEATING** closed. I have been studying the presentation on behalf of the dental hygienists and I am not that familiar with



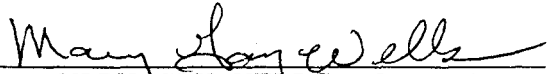
the interworkings of the relationship between the dentist and the personnel and the relationship of the personal representative to the personnel and with the establishment of fees. The thing that occurs to me with regard to the suggestion of deleting or changing this area would be that I would hate to lose the whole proposal and I believe the personnel working at the dental office would hate to lose their job suddenly if there was a chance of keeping the practice alive and keeping the work available to that person. I want to be careful not to destroy this bill and put those people out of work due to death or disability. I would ask the committee to be careful in looking at any amendments that may be proposed. **Ms. McCue** would be helpful in that area. I believe there is a need for this piece of legislation. I hope the committee will give this bill a Do Pass. Thank you.

ADJOURNMENT

Adjournment: 10:21 A.M.



SEN. JOHN R. HERTEL, Chairman



MARY GAY WELLS, Secretary

JH/MGW