

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By CHAIRMAN JOHN HERTEL, on February 11, 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 239; SB 245; SB 249; 2/3/97
Executive Action: SB 239; SB 245; SB 181;
SB 150; HJ 3
SB 206 TABLED

{Tape: 1; Side: A; Approx. Time Count: 9:03 AM; Comments: N/A}

HEARING ON SB 245

Sponsor: SENATOR GERRY DEVLIN, SD 2, TERRY

Proponents: Tom Clarke, Clarke Insurance Service, Miles City
Roger McGlenn, Independent Insurance Assoc. of MT
Frank Cote, Deputy Insurance Commissioner

Opponents: None

Opening Statement by Sponsor:

SENATOR GERRY DEVLIN, SD 2, TERRY. I bring SB 245 which is a
quick and simple bill. Under current law, if an insurance agent

has various satellite offices, each office has to be licensed even though the agent is the sole owner of all offices. This bill would allow the agent to have one license to cover all of his offices.

Proponents' Testimony:

Tom Clarke, Independent Insurance Agent, Miles City. My agency is Clarke Insurance Service. It is a corporate agency, a single corporation, operating in three different locations. Section 33-17-1101 of the MCA was written at a time when most insurance agencies were an individual person with a staff of one operating out of one location. The law was written in the singular. This bill simply amends the singular into plural so that it recognizes that an agency can have multiple locations. The agency would be licensed and not the location. I urge your adoption of this bill.

Roger McGlenn, Executive Director, Independent Insurance Agents Assoc. of Montana. For the reasons you have just heard, we ask your support. More and more, agents are establishing offices in different locations. This bill will provide more efficiency and be a cost saving bill also.

Frank Cote, Deputy Insurance Commissioner. We think this bill is a good piece of legislation. There is one point I would like to make. The way that the computer system at the State Auditor's office currently works, we would not be able to issue this particular license that they seek. However, we are rewriting the system and hope that in a year we would be able to issue these licenses that would be required.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. CASEY EMERSON asked if something couldn't be done immediately to make the process work and not have to wait a year for the computer setup? Couldn't a license be copied? **Mr. Cote** replied it would be difficult to write down all the addresses of everyone of these establishments, but it is not insurmountable. Possibly if Mr. Clarke has a license in each of his three offices, one address could be used even if it was not the correct address for that location. This could be used for a year. **SEN. EMERSON** then asked that it would not take a year, would it? **Mr. Cote** said that they could use the same process that is currently being done, and then at some point switch over to issuing only one license.

Closing by Sponsor:

SEN. DEVLIN closed. I will leave it in the hands of the committee. It is a simple application type of bill to help businesses make their life a little easier in Montana.

{Tape: 1; Side: A; Approx. Time Count: 9:12 AM; Comments: N/A.}

HEARING ON SB 239

Sponsor: SENATOR THOMAS BECK, SD 28, DEER LODGE

Proponents: Don Hutchinson, State Banking Div., Dept of
Commerce
Bruce Gerlach, 1st Security Bank, Bozeman
Keith Colbo, MT Independent Bankers
John Cadby, MT Bankers Assoc.
Brad Miller, Federal Reserve Bank

Opponents: None

Opening Statement by Sponsor:

SENATOR THOMAS BECK, SD 28, DEER LODGE. I am here to introduce SB 239. With the modernization of computers we would like to define "bank records" and "electronic storage" and require that certain electronically stored information be treated as an original record. We realize that this is how business is carried on but it has not been recognized here in the State of Montana. We want to have it in the law and be able to use these kinds of records.

Proponents' Testimony:

Don Hutchinson, Commissioner, Banking and Financial Institutions, Department of Commerce. This is a bill bringing our statute into the current business situation allowing it to address records that are going to be transferred electronically or by other technological methods that are being used. I urge a Do Pass.

Bruce Gerlach, 1st Security Bank, Bozeman. I will hand in my written testimony and samples of check imaging (EXHIBIT 1).

Keith Colbo, Executive Director, MT Independent Bankers. I believe Mr. Gerlach has explained the bill very well. We urge your support of SB 239.

John Cadby, MT Bankers Assoc. We too support the bill.

Brad Miller, Helena Branch of the Federal Reserve Bank of Minneapolis. We support this effort. We feel that check imaging will reduce the dependence on microfilm. The quality is better and the cost is less because the technology is far superior to the microfilm environment.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. CASEY EMERSON asked if pictures are taken of all the back sides of checks as well as the front? Mr. Gerlach replied we do the back side of the check only at the request of the customer.

Closing by Sponsor:

SEN. BECK closed. Thank you for a good hearing.

{Tape: 1; Side: A; Approx. Time Count: 9:20 AM; Comments: N/A.}

EXECUTIVE ACTION ON SB 245

Motion/Vote: SEN. BEA MCCARTHY MOVED DO PASS ON SB 245. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 239

Motion/Vote: SEN. STEVE BENEDICT MOVED DO PASS ON SB 239. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 181

Motion: SEN. STEVE BENEDICT MOVED DO PASS ON SB 181.

Amendments: SEN. BENEDICT MOVED TO AMEND SB 181 (EXHIBIT 2)

Discussion: Mr. Bart Campbell explained the amendments to the committee. SEN. BEA MCCARTHY asked about the Whitefish area. SEN. WILLIAM CRISMORE said that the gentlemen from Whitefish had an amendment which basically said that the resort could be partially in the city limits. SEN. BENEDICT said that their main concern was the liquor license. CHAIRMAN HERTEL asked if they couldn't get a waiver since they have started so much of their resort already? SEN. BENEDICT felt that would be a problem in that West Yellowstone people might hurry and get something started up there. Mr. Campbell felt that the savings clause may give them some protection, but the question of when did the proceeding begin would become the debatable issue. Mr. Campbell suggested that on Page 1, Line 24 where it says "the term does not include any land or improvements that lie wholly or partially within the boundaries" may give some relief if "or partially" were deleted.

Vote on Amendment: The motion to amend SB 181 CARRIED UNANIMOUSLY.

Amendment: SEN. BEA MCCARTHY MOVED TO AMEND SB 181 with the suggestion by Mr. Campbell on Page 1, Line 24 to remove the two words "or partially" (EXHIBIT 2A). The motion to amend SB 181 CARRIED UNANIMOUSLY.

Motion/Vote: SEN. MCCARTHY MOVED DO PASS SB 181 AS AMENDED. The motion CARRIED UNANIMOUSLY.

{Tape: 1; Side: A; Approx. Time Count: 9:38 AM; Comments: A 6 MINUTE BREAK WAS TAKEN..}

HEARING ON SB 249

Sponsor: SENATOR BILL WILSON, SD 22, GREAT FALLS.

Proponents: Duane Steinmetz, Citizen
Bob Nault,
John Forkan, MT State Assoc. of Plumbers &
Pipefitters
Don Halverson, MT State Assoc. of Plumbers and
Pipefitters
Jo Hawkins, Citizen

Opponents: None

Opening Statement by Sponsor:

SENATOR BILL WILSON, SD 22, GREAT FALLS. I offer SB 249 for your consideration. In Montana to be a plumber, you must be licensed by the state. In the current statute there exists some confusing language. We are attempting to clarify 37-69-301 by removing the confusing language which has been misinterpreted I believe.

Proponents' Testimony:

Duane Steinmetz, member of the MT State Board of Plumbers. It is a simple clarification. Section 37-69-301 originally was intended for municipalities who didn't have a licensed plumber at their disposal and allows the plumbing board to grant a temporary resolution to that city council for an individual to install into their system. The intent is not longer valid and urge your support of this bill.

Bob Nault, Havre, member of the MT State Board of Plumbers. The present law has language that is either obsolete or conflicts with many of the statutes in the existing law. We would like to clean this up and urge your support.

John Forkan, President, MT State Assoc. of Plumbers and Pipefitters. Our association is in support of SB 249 and ask for your support also. Thank you.

Don Halverson, Vice President, MT State Assoc. of Plumbers and Pipefitters. I ask for your support of SB 249.

Jo Hawkins, Citizen. I would like to support this bill to clarify who can plumb. I will hand in my written testimony (EXHIBIT 3).

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. STEVE BENEDICT stated that there are many jobs outside the city limit especially in the rural areas and they need the flexibility to have a line laid by someone other than a licensed plumber. Why are you now pulling everyone into being licensed whether in cities or out of the city limit? Mr. Steinmetz replied that this is not a sudden move but if one plumber needs to have a license, all should have a license no matter where they are working. The plumbing that is done should be up to standards so that there are not problems and so that the water supplies are not contaminated by poor plumbing. Many of our licensed plumbers have left the state because so many home plumbers have taken over.

SEN. CASEY EMERSON asked about consumer protection and safety and wondered if there have been some real problems. Ms. Hawkins replied that she had not heard of any illnesses in the past year. More important is that she had heard of stories that plumbing has not been up to specifications. She also stated that if the city needs licensed plumbers than the rural areas need licensed plumbers. SEN. EMERSON asked again if there has not been a problem why should we fix it. Ms. Hawkins said that she would find out from a representative of their board concerning problems that would affect the health of consumers.

SEN. BENEDICT suggested that if you move outside the city and look at the homes that are being built in subdivision, aren't those homes being inspected anyway. Ms. Hawkins said yes they all have to pull a permit.

SEN. BENEDICT asked Carol Grell, staff attorney for the POL, Dept. of Commerce, how has it been handled up till now outside of cities and towns when there is an area that is basically under served with licensed plumbers? Ms. Grell replied that is the existing language in the statute. In the section being amended, it allows for a city to give an exemption to allow a non-licensed plumber to work in their area. (A question by Sen. Benedict was lost at the turn of the tape.) The changes being contemplated by this bill would in fact do away with the necessity in that procedure.

{Tape: 1; Side: B; Approx. Time Count: 9:57 AM; Comments: N/A.}

Closing by Sponsor:

SEN. WILSON closed. There were no opponents to this bill. It is merely a matter of clearing up the language and being fair. In a skilled job, we need to have professional and licensed people so that the job is done properly.

{Tape: 1; Side: B; Approx. Time Count: 10:09 AM; Comments: A 14 MINUTE BREAK WAS TAKEN.}

EXECUTIVE ACTION ON HJ 3

Motion/Vote: SEN. STEVE BENEDICT MOVED DO CONCUR IN HJ 3. The motion CARRIED UNANIMOUSLY. SEN. BENEDICT will carry the resolution to the Senate floor.

EXECUTIVE ACTION ON SB 206

Motion: SEN. DEBBIE SHEA MOVED A DO PASS ON SB 206.

Discussion: SEN. CASEY EMERSON felt that there should be a solution, but was not sure exactly what that solution should be. SEN. BEA MCCARTHY stated that a notice should be put in with every purchase on a contracted job. SEN. STEVE BENEDICT felt that this would be just good business practice. But the people who brought this bill forward were worried how their customers and homeowners feel when they see the word "lien". SEN. WILLIAM CRISMORE felt that the homeowners should be dropped out of the loop altogether. The responsibility should lie with the supplier to get payment.

Carl Schweitzer was asked to comment if the homeowner is in double jeopardy and he replied "yes". He followed on that the homeowner needs to look at who he does business with. SEN. CRISMORE said that yes and the supplier should look at who is does business with in regard to the contractor.

Mr. Schweitzer said that normally an order will be paid periodically as the job continues on toward completion. And then the supplier should be also paid periodically.

SEN. CRISMORE asked Mr. John Cadby, MT Bankers Assoc. what the bank does in an equity loan for construction. Mr. Cadby stated that if the bank does not monitor the project and get lien waivers, then the homeowner is liable for paying for the product twice. If the supplier does not give that lien notice within 20 days to alert the homeowner that the homeowner is subject to the 90 day lien, then they forfeit their right to use the 90 day lien. The purpose of the 20 day notice, and originally it should have been 0 to 10, is to alert the homeowner. It is not a lien but only a warning that the homeowner could end up paying twice for the project. The supplier really doesn't care if the contractor pays or is reliable because he is protected and will get his money from the homeowner.

Motion/Vote: SEN. BENEDICT MOVED TO TABLE SB 206. The motion tied with SENATORS HERTEL, MCCARTHY and SHEA voting NO.

Follow on Discussion: Mr. Schweitzer and Mr. Cadby were asked to work on this bill to see if a compromise could be reached.

Motion/Vote: SEN. BENEDICT MOVED TO TABLE SB 206. The motion to TABLE SB 206 CARRIED UNANIMOUSLY.

{Tape: 1; Side: B; Approx. Time Count: 10:36 AM; Comments: N/A.}

CHAIRMAN HERTEL introduced Mr. Gordon Vance, Secretary/Treasurer, Montana Powersport Dealers Association. CHAIRMAN HERTEL asked the committee to listen to a committee bill proposal.

Mr. Vance handed in his written testimony (EXHIBIT 4) with an update on snowmobiling in Montana (EXHIBIT 5) and nine letters of support for the proposal (EXHIBITS 6, 6A, 6B, 6C, 6D, 6E, 6F, 6G, 6H).

CHAIRMAN HERTEL and the committee then discussed the feasibility of drafting a bill quickly enough. Mr. Campbell felt that it would be possible to put the draft together in time for hearing.

The license requirements are the only thing that is being looked at and they would be moved from Title 23 "Parks, Recreation, Sports, and Gambling" and placed in Title 61 "Motor Vehicles", Chapter 4 "Sales and Distribution of Motor Vehicles", along with the definitions.

Further discussion as to the reasons for this action was conducted and the committee also discussed their willingness to take this on as a Committee Bill. SENATOR HERTEL then asked if there were any objections to taking this on as a Committee Bill.

Mr. Vance stated that backyard businesses of selling ATV, etc. was not an overwhelming problem, but that their group felt it was necessary to get this piece of legislation taken care of. The organization that Mr. Vance is representing is approximately 50 people.

SENATOR HERTEL checked to see if there was time to draft the bill, have it posted for 72 hours, be heard, and have three readings on the Senate floor.

SENATOR HERTEL called for a vote of the committee. The committee voted unanimously to carry this issue as a Committee Bill.

{Tape: 1; Side: B; Approx. Time Count: 10:55 AM; Comments: N/A.}

{Tape: 2; Side: A; Approx. Time Count: 11:02 AM; Comments: A 7 MINUTE BREAK WAS TAKEN.}

EXECUTIVE ACTION ON SB 150

Motion: SEN. BEA MCCARTHY MOVED TO BRING SB 150 OFF THE TABLE.

Discussion: SEN. MCCARTHY stated that she had spoken with some people who have paid exorbitant prices for coverage after an illness. SEN. DEBBIE SHEA also spoke of her own situation with coverage for her ex-husband costing more than he could afford.

Vote: The motion CARRIED with SENATOR CRISMORE voting NO.


Motion: SEN. MCCARTHY MOVED DO PASS ON SB 150.

Discussion: SEN. CASEY EMERSON spoke that he did not like the idea of government setting prices for the industry. Some insurance companies already charge less than the 200% cap. SEN. MCCARTHY stated that people under group coverage are fortunate, but those who are shopping for their individual coverage after an illness is almost prohibitive. SEN. SHEA said that her group insurance is picking up her ex-husband's coverage which is unusual and doesn't happen often. SEN. WILLIAM CRISMORE offered his explanation why he could not vote for this bill. But stated that possibly this bill should be passed so that it could be discussed on the Senate floor.

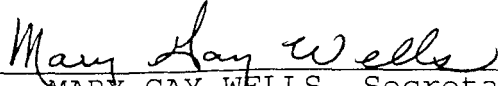
Vote: The motion CARRIED with SENATOR EMERSON voting NO.

ADJOURNMENT

Adjournment: 11:15 A.M.



SEN. JOHN R. HERTEL, Chairman



MARY GAY WELLS, Secretary

JH/MGW