

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By CHAIRMAN JOHN HERTEL, on February 12, 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. Bea McCarthy (D)

Members Excused: Sen. C. A. Casey Emerson (R)

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 265; SB 275; SB 276; 2/6/97
Executive Action: SB 265; SB 275; SB 276; SB
112; SB 226
SB 200; SB 249 TABLED

HEARING ON SB 265

Sponsor: SEN. FRED THOMAS, SD 31, STEVENSVILLE

Proponents: Bruce Aafedt, Great Falls
Jake Hart, Butte
Stuart Doggett, Montana Manufactured Housing & RV
Association
Jim Brown, Bureau Chief, Building Codes, Department
of Commerce

Opponents: None

Opening Statement by Sponsor:

SEN. FRED THOMAS, SD 31, STEVENSVILLE. This is an excellent government bill which comes at the request of the Montana Manufactured Housing and RV Association. The intent is to eliminate responsibility of the Building Codes Bureau from adopting and enforcing construction standards of RV's in Montana. RV's include campers, motor homes and travel trailers; about 2,400 are sold annually in Montana. This responsibility is no longer needed because all RV's are already in compliance with strict American National Standards Institute (ANSI). This Standard is the same as currently required by the Building Codes Bureau, who is not opposed to SB 265. Section I addresses inspection fees and "recreational vehicle" is to be removed from the building code statute relating to the collection of the fee because if SB 265 passes, the collection will no longer be necessary. Section 2 removes the terminology relating to recreational vehicles and building code statute. Section 3, Subsections (1) (2) & (3), delete recreational vehicle references in building code law and Section 3, Subsection (4), is added to say all new RV's sold or manufactured in Montana be in compliance with the ANSI Standard. This has been passed in several states around the country.

Proponents' Testimony:

Bruce Aafedt, Travel Time RV, Great Falls. I have been in business in Great Falls for about eight years and not once have I seen or heard of anyone from the state coming to our lot to inspect any RV's for compliance to the plan submitted to the Department for approval, nor for the stickers actually placed on the unit to prove its compliance. The handout I gave you (EXHIBIT 1) shows many invoices we received from various manufacturers for last year. The Montana sticker costs \$15 and most of the manufacturers charge more; the cost is ultimately passed on to the consumer. SB 265 would eliminate that cost. The state inspection sticker on each unit could hold the state liable for the construction of the unit. I urge your support for this bill.

Jake Hart, Hart's RV, Butte. The main reason I support SB 265 is I sell one product line which is actually built in seven plants, only two of which are approved by the State of Montana. If I get a unit from another plant, it will sit for a period of time in order for someone from the building department to look at it and put a sticker on the side; the cost of which is \$50. The time delay, etc., can make for an unhappy customer. That is why I'm for SB 265.

Stuart Doggett, Montana Manufactured Housing and RV Association. I would like to conclude the proponents' remarks with additional information. The ANSI Standard refers to over 500 safety, plumbing, electrical, etc., standards, and is developed by the consumers, government officials, insurance interest, banking

interest, dealers and manufacturers. RV's which are currently built and sold in Montana are built to that standard.

The next thing I want to address is the history of RV regulation. In the 1960's two groups, Trail Coach Association in the West & Recreation Vehicle Institute in the East, were formed because of the problem of shoddy RV's, and the remedy to that problem was the ANSI Standard. The two groups eventually went different ways: The Trail Coach Association, which included Montana, sought to use state regulation to review and establish RV building standards while the Recreation Vehicle Institute took the program of the private/consensus self-regulation and enforcement program. Both programs were successful. We, along with Arizona, California, Colorado, Kentucky, Missouri, Nebraska, Oregon, Tennessee, Washington have state regulation. The process is basically done at the cost reimbursement where the building codes bureau or state agency charges a fee to review the plans that the manufacturer provides and/or preview on the lot and make sure they comply with the ANSI standards. If you look at the 40 other states, they have their own private programs requiring what we are seeking in SB 265, that units comply with the ANSI standards. Another group, the RVIA, Recreational Vehicle Institute Association, was formed. This group was formed in 1974 and since that time the RVIA has expanded their enforcement program and actually serves as the secretariat for the ANSI standards. The RVIA has well over 95% of all RV manufacturers in it's organization. Their membership requirements demand that everyone construct their units in compliance with the ANSI standards. For the few non-member RV manufacturers, it is the universal stage requirement that their units be constructed to the ANSI standards.

The states of Iowa, Idaho, Florida, Kansas, Ohio, Nevada and Utah have placed language in their laws similar to what is contained in this bill. I will conclude that Montana would like to join these states that have dropped their enforcement programs and proceed with SB 265.

Jim Brown, Bureau Chief, Building Codes, Department of Commerce.

We presently enforce the recreational vehicle standards in Montana and in all units that are shipped to Montana. We support SB 265. We feel that its time has come. There has been quite an evolution over the years. It is my understanding that back in the years when the program was initially begun, Montanans were of the opinion that the RV's that did not meet the ANSI standards were shipped to Montana for sale. So we became one of the 13 ANSI standards states and we have been for all these years. That number is down to about 10, of which we are still one. The main change in the RV construction is the RVIA. They are quite a policing organization. They have a thick handbook which requires each member to comply with their rules and regulations. In the last 10 years or so we have had virtually zero problems with RV's in the state. We only have a couple of manufacturers in the state. We do on-site inspections of those companies. All the

RV's manufactured out-of-state are inspected by third party inspectors. We do not travel out of state to inspect these manufacturing companies. We accept approval of plans from a reciprocal state. We do spot checks on dealer lots to see if the units have a Montana RV sticker on it. Over half of our program income has come from these stickers.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. BEA MCCARTHY stated that having read the fiscal note, there is a \$92,000 loss to the state in one year. She asked if that would create an undue fiscal impact on the Department? Mr. Brown replied that it would not. The budget is sufficient. The Department does not do a lot for this money. The employees are overworked on other issues that they attend to. SEN. MCCARTHY asked if there would be any layoff? Mr. Brown replied "no".

SEN. JOHN HERTEL asked about the RV part that had been stricken from the bill on Line 26. Why do we need that particular wording in that part of the bill? Mr. Doggett answered that in Section 3, since we are adding a new subsection 4, it specifies that RV's must be in compliance with the ANSI standards. We are giving a reference that what the standard compliance is so in my opinion it would have to be in the title. Mr. Bart Campbell said that catch lines aren't part of the law, but there is a reference to recreational vehicles and standards so the catch line is not incorrect.

Closing by Sponsor:

SENATOR THOMAS closed. Thank you for a good hearing. I appreciate the association for bringing this bill to light and to the Department as well for being here and openly discussing this with you. It does involve reduction of revenue but it is obvious that we should not collect for something that we are not utilizing.

{Tape:1; Side: A; Approx. Time Count: 9:25 AM; Comments: N/A.}

HEARING ON SB 275

Sponsor: SENATOR KEN MILLER, SD 11, LAUREL

Proponents: Brad Griffin, MT Retail Assoc.
John Cadby, MT Bankers Assoc.

Opponents: None

Opening Statement by Sponsor:

SEN. KEN MILLER, SD 11, LAUREL. I offer SB 275 today. It is short and sweet. There is an amendment (EXHIBIT 2). We are

changing the amount from \$15 to \$10. With that, I'll let the proponents take over.

Proponents' Testimony:

Brad Griffin, MT Retail Assoc. I would like to hand you (EXHIBIT 3) that explains the case for late fees for Montana retail credit grantors. The other handout (EXHIBIT 4) explains which states authorize late payment fees.

John Cadby, MT Bankers Assoc. In effect, I believe by the amendment proposed by the sponsor, he is going to reduce the cap from \$15 to a flat \$10. No matter what your monthly payment is, it is going to cost \$10 to try to collect a delinquent fee or send out notices. You could view this as a bad check. You would probably pay the bank at least \$10 for a bad check. \$10 might be a deterrent to encourage people to pay their bills on time.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. STEVE BENEDICT asked if my balance was \$50, am I going to pay a 20% penalty for being late? **Mr. Griffin** stated that it allows the credit grantor up to \$10.

SEN. BEA MCCARTHY asked that if she charges something for \$40, will she be liable for a \$10 late fee. **Mr. Griffin** said no, once the bill is issued a person would have 10 days (called a grace period) after the due date to make the payment without a \$10 late fee charge.

Mr. Griffin also explained that a person must open an account with a retailer, sign a contract and would know what regulations the merchant would require before a \$10 late fee could be applied.

SEN. DEBBIE SHEA asked if a retailer could charge a \$10 late fee if their billing cycle falls immediately after a charge purchase? **Mr. Griffin** replied that he felt merchants want to keep your business and are not going to abuse this law by charging this fee frequently or immediately after a charge has been made.

Closing by Sponsor:

SEN. MILLER closed. I would like everyone to keep in mind that we are not talking just about J.C. Penney and Sears but about the little flower store that sets up a credit charge for their people for convenience. Credit costs money and delinquencies add to that cost. Someone pays, whether it is the prudent, careful consumer or someone else. But I feel the ones who are delinquent should pay for their own delinquency. One point that was brought

out was that if you will make even some kind of payment, there won't be a late fee.

{Tape: 1; Side: A; Approx. Time Count: 9:45 AM; Comments: N/A}

HEARING ON SB 276

Sponsor: SENATOR KEN MILLER, SD 11, LAUREL

Proponents: Brad Griffin, MT Retail Assoc.
John Cadby, MT Bankers Assoc.

Opponents: None

Opening Statement by Sponsor:

SENATOR KEN MILLER, SD 11, LAUREL. I bring you SB 276 and would like Brad Griffin explain the bill for you.

Proponents' Testimony:

Brad Griffin, MT Retail Assoc. This bill is how the interest is calculated on the balance. I have a written explanation (EXHIBIT 5) on how this interest is calculated.

{Tape: 1; Side: B; Approx. Time Count: 9:50 AM; Comments: ONE SENTENCE WAS LOST AT THE TURN OF THE TAPE.}

I would like to hand out another paper (EXHIBIT 6) that explains another change SB 276 would make in Montana law.

John Cadby, MT Bankers Assoc. Banks are subject to the laws of the state in which they are domiciled as well as to the federal laws. The point being, that virtually everybody nationwide, VISA, MASTERCARD, etc. uses the average daily balance method of computing interest in current purchases. This discriminates against Montana retailers, putting them at a slight disadvantage. Being out of sync with interstate commerce is not good. All the banks here in Montana are merely distributors of VISA, MASTERCARD, etc. and therefore are not subject to this provision.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. BEA MCCARTHY asked if credit cards and minimum payments are hurting the poorer people and are they being penalized by this bill? Mr. Griffin replied that many people he knows who are well off have managed to get themselves into financial trouble by having all their credit cards maxed out, so I don't think we are singling out that part of the population.

SEN. STEVE BENEDICT asked if a survey had been taken to see if this kind of bill is critical to their survival? Mr. Griffin responded that an organized survey was not taken, but that he had spoken with many retailers who are already figuring their interest on the average daily balance including the current month's purchases. These people are ignorant of the law and are doing what the rest of the nation is doing. It is common practice in the U.S.

SEN. DEBBIE SHEA asked when interest would start if she had an existing balance of \$300 and went in and bought a \$200 suit? Mr. Griffin said that interest would start on the \$200 purchase and continue on the balance of \$300; but if she paid off the \$200 at the end of the month within the grace period, interest only would be accrued on the \$300.

SEN. BENEDICT asked Mr. Griffin to explain a little of the history of SB 275 and SB 276. Mr. Griffin stated that in 1995, both bills were introduced as one bill, possibly SB 335. It cleared the Senate committee, it cleared the Senate by 48 to 2, and failed in the House by 56 to 44. A struggling point was the flat \$15 late fee. This time we have lowered it to \$10 to be in conformity to the states around us.

Closing by Sponsor:

SEN. MILLER closed. Thank you for a good hearing and if you can't pay cash, pay within 30 days and there will be no interest and no late charge. I hope you will give us a favorable nod.

{Tape: 1; Side: B; Approx. Time Count: 10:06 AM; Comments: A 17 MINUTE BREAK WAS TAKEN.}

{Tape: 1; Side: B; Approx. Time Count: 10:23 AM; Comments: N/A.}

EXECUTIVE ACTION ON SB 265

Motion/Vote: SEN. BEA MCCARTHY MOVED DO PASS ON SB 265. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 275

Motion: SEN. WILLIAM CRISMORE MOVED DO PASS SB 275.

Amendments: SEN. CRISMORE MOVED to AMEND SB 275 (EXHIBIT 2)

Vote on Amendments: The motion to AMEND CARRIED UNANIMOUSLY.

Motion/Vote: SEN. CRISMORE MOVED DO PASS AS AMENDED SB 275. The motion CARRIED with SENATORS MCCARTHY and SHEA voting NO.

EXECUTIVE ACTION ON SB 276

Motion/Vote: SEN. CRISMORE MOVED DO PASS SB 276. The motion CARRIED with SENATORS MCCARTHY and SHEA voting NO.

EXECUTIVE ACTION ON SB 112

Motion/Vote: SEN. MCCARTHY MOVED TO BRING SB 112 OFF THE TABLE. The motion CARRIED with Senators Crismore and Benedict voting NO.

Motion: SEN. MCCARTHY MOVED DO PASS SB 112.

Discussion: SEN. MCCARTHY said that this bill provides for people who are terminally ill and it is a safety net for those who do not have long to live and is crafted in such a way that one cannot take advantage of it if you are not terminally ill. It gives these people a sense of well-being before they die. It seems the only point of contention in this bill is in Section 8 which was the new section that was the brokers fee and this sets the brokers fee at 2%. On that particular part I would be willing to listen to an amendment but I still feel it is a necessary piece of legislation.

SEN. STEVE BENEDICT confirmed that it is a necessary piece of legislation, but in this committee next Monday or Tuesday a bill on the Kennedy-Kassebaum compliance act will be heard. This bill is contained in that act.

SEN. JOHN HERTEL stated that he believes in the bill and realized that the time is getting short and understands that the sponsor does not want this to die in committee.

SEN. MCCARTHY wants this bill to have an individual hearing because people need to know what this bill is all about and not get buried in a larger bill. She is not opposed if this bill should be rolled into a bigger bill at a later date.

Vote: The motion of DO PASS ON SB 112 CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 226

Motion: SEN. MCCARTHY MOVED DO PASS SB 226.

Amendments: SEN. MCCARTHY MOVED TO AMEND SB 226 (EXHIBIT 7)

Discussion: SEN. STEVE BENEDICT asked Mr. Cote, Deputy Insurance Commissioner if the amendments had been brought forth by the American Council on Life Insurance (ACLI) and if they are

contained in the amendments prepared by Bart Campbell? Mr. Cote responded that these are the same amendments proposed by the ACLI.

Vote on Amendments: The motion to AMEND SB 226 CARRIED.

Motion/Vote: SEN. BENEDICT MOVED DO PASS AS AMENDED SB 226. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 200

Motion: SEN. BEA MCCARTHY MOVED DO PASS SB 200.

Amendments/Vote: SEN. MCCARTHY MOVED TO AMEND SB 200 (EXHIBIT 8). The motion to AMEND SB 200 CARRIED UNANIMOUSLY.

Discussion: Mr. Bart Campbell explained the amendments that were requested by SEN. DOHERTY. SEN. HERTEL felt that the amendments did not go far enough. Mr. Campbell stated that in Montana we have the constitutional right to know and we also have a constitutional right of privacy. The courts have always held that the right to know is the stronger of these two rights and you have to have a compelling reason that the right to privacy would override the right to know. Ultimately, that is how this bill will be decided and that is in the courts. SEN. MCCARTHY wondered if only the prison could be looked at since that was the main example used when the bill was presented. SEN. BENEDICT felt that the bill will open up too much and hurt the chances of other contracts being secured if private books are opened for all to see and know. SEN. BENEDICT offered a conceptual amendment. Anywhere where Section 2-8-303 MCA is amended in this bill and further Section 2, Section 3 and Section 4, we insert "Department of Corrections" where "state agency" is used.

Amendment/Vote: SEN. BENEDICT MOVED TO AMEND SB 200 with his conceptual amendment. The motion to AMEND SB 200 conceptually CARRIED UNANIMOUSLY.

Motion/Vote: SEN. WILLIAM CRISMORE MOVED TO TABLE SB 200. The motion to TABLE SB 200 CARRIED UNANIMOUSLY.

{Tape: 1; Side: B; Approx. Time Count: 10:51 AM; Comments: N/A.}

EXECUTIVE ACTION ON SB 249

Motion: SEN. DEBBIE SHEA MOVED DO PASS SB 249.

Discussion: SEN. STEVE BENEDICT said this is a bad bill. In talking with the sponsor, the sponsor indicated that he had not

been fully prepared in his presentation and that he would do a better job on the floor, but SEN. BENEDICT still felt that it is a bad bill. SEN. WILLIAM CRISMORE said that he would not support this bill because it is just a protection bill for jobs. It takes 9 years to become a master journeyman and only 7 years to become a doctor. Montana is behind every other state around in handling this situation. Montana is too restrictive as it is.

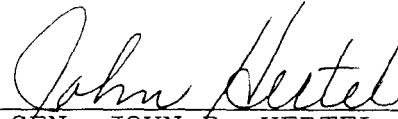
{Tape: 2; Side: A; Approx. Time Count: 10:52 AM; Comments: N/A.}

SEN. DEBBIE SHEA felt that the lady who testified had brought forward some very strong testimony in defense of this bill. What kinds of recourse are available to homeowners if this bill is not passed out of committee? What specifications are not being met if this bill is not passed? SEN. BENEDICT responded that you have recourse to sue your contractor, you have recourse to sue your plumber, but most of these jobs are inspected by a licensed plumber, etc.

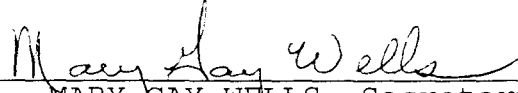
Motion/Vote: SEN. BENEDICT MOVED TO TABLE SB 249. The motion CARRIED with SENATORS MCCARTHY and SHEA voting NO.

ADJOURNMENT

Adjournment: 10:55 A.M.



SEN. JOHN R. HERTEL, Chairman



MARY GAY WELLS, Secretary

JH/MGW