

MINUTES

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

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on March 4, 1997, at 8:00 a.m., in Room 413.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Mack Cole (R)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Wm. E. "Bill" Glaser (R)
Sen. Mike Sprague (R)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: Sen. Mike Foster, Vice Chairman (R)

Members Absent: None

Staff Present: Jeff Martin, Legislative Services Division
Renée Podell, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 308
Executive Action: None

HEARING ON HB 308

{Tape: 1; Side: A; Approx. Time Count: .5; Comments: None.}

Sponsor: REP. BOB PAVLOVICH, HD 37, BUTTE

Proponents:

Tom Hopgood, Montana Beer and Wine Wholesalers' Association
David Morrison, Earl's Distributing
Mona Jamison, Wine Institute

Opponents:

SEN. DOROTHY ECK, SD 15, BOZEMAN

Opening Statement by Sponsor:**REP. BOB PAVLOVICH, HD 37, BUTTE****EXHIBIT 1**

This bill deals with cider beer. It is an alcoholic beverage made from the alcoholic fermentation of the juice of apples or pears. It contains not less than one-half of 1% alcohol and not more than 6.9% alcohol. This bill changes the tax structure; we are not going to tax this cider as wine like is presently being done. The bill would impose a tax of 3.7 cents per liter on cider which is the same as the tax on beer.

Proponents' Testimony:**Tom Hopgood, Montana Beer and Wine Wholesalers' Association****EXHIBITS 2, 3 & 4**

Mr. Hopgood presents written testimony from Christe Lee, President of Montana Beer and Wine Wholesalers' Association (Exhibit 2). He asks that the Committee read the last three paragraphs of Ms. Lee's testimony which talks about the periodic introduction of new products into the market. He also presents his own testimony (Exhibit 3). He indicates there are two attachments to his testimony; one has to do with economic data and the other is a newspaper article which discusses cider from a historical viewpoint. Exhibit 4 is an explanation of the changes to current law relative to this bill.

David Morrison, Earl's Distribution

We see cider as a unique, low-alcohol product that's been established for many centuries. Cider is a category that is apart from either beer or wine. Nineteen states have recognized that cider should not be taxed as wine. Cider can't flourish in Montana with the high wine tax rate.

Mona Jamison, Wine Institute

We stand in strong support of this bill. Cider is a unique product; it comes from apples, not grain or hops and is not brewed. It is not a wine, has lower alcohol content, but is presently being taxed at the wine rate of \$1.06 per gallon. This bill taxes cider at the beer rate of \$.14 per gallon. The sale of this product is small but will increase if the tax rate is lowered. The allocation of the tax remains the same. This legislation represents the efforts of many people coming together and working in good faith on a compromise.

Opponents' Testimony:**SEN. DOROTHY ECK, SD 15, BOZEMAN**

SEN. ECK has problems with this bill. It is an expansion of the consumption of alcohol. The law should state that it's cider-beer. The State of Montana ends up bearing the costs of alcoholism; most of the problems we have with the corrections system are related to problems with alcohol consumption. The tax doesn't come close to covering the costs to the State of Montana.

Questions From Committee Members and Responses:

CHAIRMAN GERRY DEVLIN: How was the current tax determined? **Mr.**

Hopgood: The tax is the same as it is on wine. Under the present definition of wine in statute, cider fits because it is fermented from fruit and is considered wine. **CHAIRMAN DEVLIN:**

If we change the tax, how much would it change the price per bottle? **Mr. Hopgood:** That would be determined by the producers

and distributors; we envision the price would come down and the consumer would benefit. **CHAIRMAN DEVLIN:** Would it cause

expansion of consumption or would people just switch from one drink to this? **Mr. Hopgood:** I don't believe this will cause a

huge explosion in the sale of alcoholic beverages.

SEN. BARRY STANG: Is cider taxed at the federal level - if so, how is it taxed? **Mr. Hopgood:** Cider is taxed as beer at the

federal level. **CHAIRMAN DEVLIN:** We would like to be sure about that.

SEN. FRED VAN VALKENBURG: If we were to change the tax structure, it appears it would take an 8-fold increase in sales of alcoholic cider to generate the same amount of tax revenue.

We would have to go from 60,000 liters to one-half a million liters to generate the same revenue. **Mr. Blewett, Department of**

Revenue: I agree with your approximate figures. **SEN. VAN**

VALKENBURG: What is the State's ability to control abuse of such a product by minors? **Mr. Blewett:** The State doesn't have any

direct control over consumption by minors. I don't expect marketing to change much except for the price and don't see that affecting consumption by minors.

SEN. MIKE SPRAGUE: The market we have now for cider is minuscule. Relative to the law of supply and demand, the price of the product is irrelevant to the tax. The State would be getting taxes from more than just the bottle; if the market increases there will be taxes from wages and so forth.

SEN. BOB DEPRATU: Regarding packaging, can there be confusion between alcoholic and non-alcoholic cider? **SEN. MIKE TAYLOR, SD 37, PROCTOR:** The federal government has very specific guidelines that must be followed. In the cider area, packaging must indicate "soft cider or non-alcoholic cider" very clearly in those cases. The tax on 24 bottles of cider is \$2.43. Most of the alcoholic cider in the State of Montana is selling for \$7.99 per six-pack.

SEN. DOROTHY ECK: Can it be packaged in anything except brown bottles? **SEN. TAYLOR:** Yes, it could be, but brown bottles are

good for recycling purposes. **SEN. ECK:** Are federal taxes determined by liter or by percentage of value? **SEN. TAYLOR:** In

the cider and beer categories it's determined by liter. **SEN. ECK:** What is on the label for alcoholic cider? **SEN. TAYLOR:** It

says "hard cider" and it's very definitely marked.

SEN. ECK: Regarding marketing, are younger drinkers targeted?

Mr. Morrison: The marketing is done in a responsible way. As an industry we're very concerned about abuses of alcohol; we don't see a conflict in that regard. We believe pricing prevents targeting young drinkers. **SEN. ECK:** Would you object to changing the definition to cider-beer? **Mr. Morrison:** We would not object to a use of any terminology, either cider-beer or hard cider. "Hard cider" is probably the better choice as it's consistent with the labeling that's being done now.

SEN. MACK COLE: We've been talking about several products; as far as taxing, are there any other categories than wine or beer?

Mr. Blewett: There is also tax on liquor; but in terms of the area we're talking about there's only tax on beer or wine.

SEN. WILLIAM GLASER: Regarding Section 4, there's a court case in which this type of action was struck down. This may conflict with that court decision. **REP. PAVLOVICH:** It seems to me that was on the main distributorship between Budweiser and Miller High Life or something like that regarding having their own franchise or their own territory. I had a bill in 1985 that dealt with the strike we had in Butte; that may be what you're recalling. **SEN. GLASER:** What I'm talking about was a case regarding chemicals, herbicides and pesticides and so forth; they tried to limit the distributorship. They lost that case. My question is if this section is important enough, we could lose this section. **Mr. Hopgood:** You're questioning the legality of having exclusive territories for the distribution of alcoholic beverages, whether it be for beer or wine. The exclusive territory laws for beer distribution exist in 49 of our 50 states; they have been to court repeatedly and have been upheld. Distribution of beer and wine is very different from the distribution of another commodity. According to the Constitution, the states shall have the freedom to regulate the distribution and sale of alcohol within their respective borders.

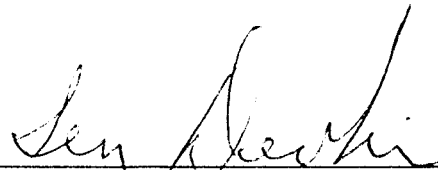
Closing by Sponsor:

REP. BOB PAVLOVICH: In reference to **SEN. VAN VALKENBURG'S** question: Yes, sales would increase to a certain extent, just like everything else; it's not going to affect younger drinkers; they will buy and drink whatever they like. If we do pass this legislation, **SEN. J.D. LYNCH** will carry the bill.

CHAIRMAN DEVLIN requests **Mr. Blewett** get back to the Committee with verification as to the federal tax system.

ADJOURNMENT

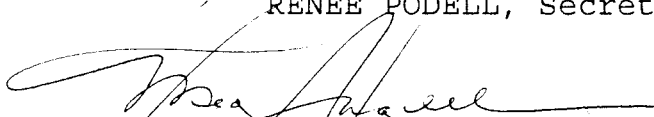
Adjournment: 8:54 a.m.



SEN. GERRY DEVLIN, Chairman



RENEE PODELL, Secretary



MEG ANGELL, Transcriber

GD/MA