

MINUTES

MONTANA SENATE  
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By CHAIRMAN JOHN HERTEL, on March 14, 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)

Members Excused: Sen. Bea McCarthy (D)

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: HB 431; HB 435; HB 478; 3/5/97  
Executive Action: None

HEARING ON HB 431

Sponsor: REP. JOE QUILICI, HD 36, BUTTE

Proponents: Dave Fisher, Chairman, Public Service Commission  
Don Judge, AFL-CIO  
Barbara Ranf, U. S. West  
Mike Strand, MT Independent Telecommunications  
Systems  
Joan Mandeville, MT Telephone Association  
Dick Pattison, MT Senior Citizens Assoc.

Opponents: None

Opening Statement by Sponsor:

REP. JOE QUILICI, HD 36, BUTTE. HB 431 is a bill against "slamming". Long distance companies would be prohibited from switching a customer's long distance service to another carrier without the customer's prior written authorization or unless the customer contacts another long distance service and initiates the switch. A company that violates this law would be liable to the customer for all charges incurred by the customer during the period of unauthorized change of the customer's original carrier. This violation would bring a fine of \$500 and up to six months in jail. This is something that the FCC has not even promulgated yet. We need this bill here in Montana now. As Chairman of MT Consumer Council Committee, we have had numerous complaints concerning "slamming". In fact, REP. GERALD PEASE, just told me the other day he was "slammed". He had a lot of problems and it was taken care of with the help of the PSC. This is a good bill and a Montana bill. I have an amendment (EXHIBIT 1) that would make the effective date on passage of the bill. The Public Service Commission also has an amendment that I fully concur in.

Proponents' Testimony:

Dave Fisher, Chairman, Public Service Commission. I will present my testimony (EXHIBIT 2). We have an amendment (EXHIBIT 3). We urge your support of this bill.

{Tape: 1; Side: A; Approx. Time Count: 9:15 AM; Comments: A 4 MINUTE BREAK WAS TAKEN DURING MR. FISHER'S TESTIMONY}

Don Judge, AFL-CIO. Our company was "slammed" sometime ago. A company, Network Services, told our folks that they were an affiliate of AT&T. We discovered about two months later, that our billings were coming in from someone other than AT&T. We tried for six months back in 1995-96 to get this turned around. We then contacted the PSC. We tried to get a copy of the authorization of the switch that Network Services said they had. To this date we have yet to receive a copy of the bogus authorization. A year had passed and this situation had not been resolved. The culmination of the problem came about when we received a letter from them in August 1996 from legal services counsel saying that they were threatening to take action against us and report us to a consumer reporting company if we refused to pay this bill. The bill was very small and in the end we did take care of the bill. They even threatened at one time to shut off our services. We finally sent AT&T a revocation of billing telephone authority in which we listed all of our lines and said we want you to handle all billing for this and refuse to hand over our billing services to any other company. Consumers need protection from this kind of criminal activity. I support both amendments. We encourage you to amend and pass this bill out of committee.

**Barbara Ranf, U. S. West.** We support this bill. "Slamming" is a black eye on the industry. Last year we had about 160 complaints from U. S. West consumers that they had been "slammed". How this comes to our attention is we get mag tapes from long distance companies and others to make changes in how we bill, etc. The vast majority of those are legitimate changes. Unfortunately a few of them are unauthorized changes. And there is no way when we run them through our system that we can tell the difference. How it comes to our attention is when a customer calls and they tell us there is a new phone bill from a new long distance company that they had not heard of nor authorized. When that happens, we waive the \$5 switching charge and switch them back to the long distance company that they were with. Then the consumer has to get with the PSC or the company that had "slammed" them and try to work the problem. We hope this bill will put some teeth into the law and go after those companies who "slam" customers. We also support the amendments. We urge a Do Concur on this bill.

**Mike Strand, MT Independent Telecommunications Systems.** This is a problem in the industry. To date, in Montana, "slamming" has been almost exclusively a long distance problem. We are concerned that as customers are increasingly able to choose their local carriers and their short-haul long distance carriers, this may become a local problem as well. We need to nip this problem in the bud now. "Slamming" is bad for everyone. It is frustrating for the customers. It is costly. And it is very time consuming. It is bad for existing carriers such as my members because we stand to lose revenues. We share the customers' headaches in getting these things straightened out. We feel obligated to help even though we have no part in causing this problem. We hope that this bill sends a message to those companies who are "slamming" that this practice will not be tolerated in Montana. We also support the amendments and we urge your support for HB 431.

**Joan Mandeville, MT Telephone Association.** I would reiterate that this practice of "slamming" has become one of the most serious customer problems in our industry today. At first, it was just a matter of customer education, but we have had our own telephone company people "slammed" and we have had letters come through to change internal office lines of telephone companies. It is a rampant problem. It has a great number of impacts. One of the complaints that I recently received was from a very small hotel. They had a long distance company that gave them the time and charges for billing individual rooms. Their lines were "slammed" and they had about four days when they could not track any of those calls and bill the calls back to the rooms. So there are a lot of problems. We have tried to call people when orders have come in to switch their long distance lines, but it is expensive and almost impossible and the customers don't like to be called when they have legitimately changed long distance companies. We haven't come up with any good solutions. I hope

this bill will come to the rescue. We are in support of the amendments. We urge you to pass this bill.

Dick Pattison, MT Senior Citizens Assoc. We are here today to support HB 431. If anything, we wish it went further than it does. We support the amendments.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. STEVE BENEDICT asked if the sponsor would like to make "slamming" a felony? REP. QUILICI answered that if the committee would like to make the penalty a little stronger, he would have no objection to that. He suggested that the committee check with Greg Petesch and work with him to see if it could be done.

SEN. CASEY EMERSON asked if the committee adds the amendment that you submitted, the bill will have to go back to the House. So with the suggested amendment of SEN. BENEDICT, it wouldn't make it anymore difficult, right? REP. QUILICI replied that no, all amendments could be added and he would accept all three amendments.

Closing by Sponsor:

REP. QUILICI closed. I hope that you will pass this bill. I appreciate the good hearing.

{Tape: 1; Side: A; Approx. Time Count: 9:33 AM; Comments: N/A.}

HEARING ON HB 435

Sponsor: REP. HAL HARPER, HD 52, HELENA

Proponents: REP. DOROTHY SIMPSON, HD 61, HAMILTON  
Sam Rotellini, Bozeman Humane Society  
Dennis Iverson, Montanans and Their Pets  
Janice C. Reilly, Bozeman  
Stuart Doggett, MT Veterinary Medical Assoc.  
Judith Fenton, Animal Welfare  
Colleen Miller, Western MT Spay/Neuter Task Force  
Jorge Quintana, Missoula Humane Society  
Judy Lemmer, Humane Society Task Force, Missoula  
Arthur Alexander, Hamilton

Opponents: None

Opening Statement by Sponsor:

REP. HAL HARPER, HD 52, HELENA. HB 435 addresses a problem that costs taxpayers in the United States \$1 billion a year. It pertains to the controlling of the population of dogs and cats.

Everyday, in this nation, approximately 70,000 puppies and kittens are born. Only one out of five find a good home. The result is that every city, town and burg ends up killing nearly half of these animals. They are euthanized mostly at pounds and humane shelters. Is the only solution to kill the extras? No, the solution is simple and very cost effective. It requires spaying and neutering of these pets. This bill requires every humane society and pound to adopt a policy that before the animals can be adopted, they have to be spayed or neutered. If the animal is less than six months, the person has to sign an agreement saying they will have the procedure done at the proper time. The first part of the bill deals with information that will be provided upon the sale of the animal. The addition of a pet to a family is important and they need to know certain health information.

In one part of the bill, there has been a problem. In both the cases of the humane societies and pet stores, there are some people who deliver the pet and do not want their names known. As the bill is written, that information would have to be provided upon request. I have worked with **Dennis Iverson** who represents the pet store owners and we have come with an amendment (**EXHIBIT 4**) that we think addresses the problem and does it in a nice way. It provides the information will be kept for two years. The information can be released if there is a legal action or enforcement action, but otherwise the pet stores or the humane societies do not have to release that information. That will protect a good samaritan who rescues a pet and brings it to a humane society.

#### Proponents' Testimony:

**REP. DOROTHY SIMPSON, HD 61, HAMILTON.** I am here to speak for this bill. The problem is endemic in Montana. This is a beginning. Thank you.

**Sam Rotellini, Bozeman Humane Society and MT Animal Care Assoc.** We support this bill with the amendments. This bill provides for the allowing of basic information. The only real solution for overpopulation of animals is spaying and neutering. We work hard to find homes for the animals, but there are more animals than there are homes. Recently we provided free spaying and neutering in Bozeman. We had 60 free surgeries and they were given away in 45 minutes. People want to do this. We do require this in our animal shelter. This bill is a good bill and provides the mechanism for those people that agree to alter an animal and failure to do so is expensive to us and to the animal patrol organizations. We need an enforcement arm. Thank you.

**Dennis Iverson, Montanans and Their Pets.** We represent pet stores across Montana. This bill is an excellent idea. We are also in support of the amendments. Thank you.

**Janice Reilly, Gallatin Valley Humane Society.** I strongly support this bill and would submit a letter (EXHIBIT 5) of support.

**Stuart Doggett, MT Veterinary Medical Assoc.** We too go on record in support of HB 435. We are also in support of the amendments. Thank you.

**Judith Fenton, Clancy.** I would like to speak and hand in my written testimony (EXHIBIT 6).

**Colleen Miller, Stevensville.** She felt that this was a good bill and would effectively control the problem of overpopulation. She related stories of a puppy mill that is close to her home.

**Jorge Quintana, Missoula Humane Society.** We strongly support HB 435. On amendment #4, we would change it to read "include the manufacturer's name and serial number of the vaccination used if available". The only reason that information might not be available would be if (a) the vaccination was not actually given or (b) sloppy bookkeeping. Because of that, that information should always be available and be given out. There is a difference between someone rescuing an animal and bringing the animal to a shelter and someone who peddles puppies and kittens to a store for the intent purpose of reselling that puppy for a profit.

**Judy Lemmer, Missoula and member of the Humane Society Task Force.** I have been a volunteer for ten years. I did help write this legislation. We researched similar legislation from several other states. We picked the most basic and practical legislation we could. We feel this a good, workable bill. Legislation will not solve the problem but it will validate what we are doing in the communities. I would like to submit a brochure that speaks to the problems of pet overpopulation and to spaying and neutering (EXHIBIT 7). We ask your concurrence in the bill.

**Arthur Alexander, Hamilton Humane Society.** We would like for you to support this bill. It is a small step. But we have a serious problem and we need to start somewhere. Thank you.

Opponents' Testimony: None

Questions From Committee Members and Responses:

**SEN. STEVE BENEDICT** asked if this bill is absolutely necessary? Can't the humane societies and animal shelters adopt these rules without us passing a law? **REP. HARPER,** said yes they can, but the real question is will they do it or when will they do it? The humane societies and animal shelters should not be in the business of increasing the population of the animals. **SEN. BENEDICT** observed that it is getting a bit sticky on the Senate Floor and you know how that goes, with top down versus local control. I have a feeling this bill will face a few problems on

the Senate Floor. **REP. HARPER** said he feels that this bill is simple and doesn't really cost so much money.

**SEN. CASEY EMERSON** asked if this bill might not be putting additional costs onto people who want to adopt a pet and won't do so if it costs them more? **REP. HARPER** said that the costs paid by citizens to support the Humane Societies' function should be more than when an animal is adopted and those costs would be covered by the person doing the adopting. This bill should save taxpayers money. When the Lewis & Clark Humane Society adopted the policy of spaying and neutering by the owners they were concerned about the demand for animals would drop off. This concern did not come about. They seemed to notice that people had a better commitment to the pet. Sometimes you can't give things away for free, but if you sell them for \$5, people will not only buy them but take better care of them.

Closing by Sponsor:

**REP. HARPER** closed. If this bill works, it would increase the business at the pet stores. People will be looking for those kind of outlets for breeding pets. They shouldn't come from puppy farms. Thank you for your time.

*{Tape: 1; Side: B; Approx. Time Count: 9:58 AM; Comments: TURNED THE TAPE A BIT EARLY SO AS TO START AT THE BEGINNING OF SIDE B.}*

HEARING ON HB 478

Sponsor: **REP. WILLIAM WISEMAN, HD 41, GREAT FALLS**

Proponents: **Greg Van Horssen, State Farm Insurance**  
**Charles Brooks, MT Independent Glass Dealers**  
**Assoc.**  
**Frank Cote, Deputy Insurance Commissioner**

Opponents: **None**

Opening Statement by Sponsor:

**REP. WILLIAM WISEMAN, HD 41, GREAT FALLS.** For those of you around in 1993, you might recall that we had an atmosphere with lots of grief from the small glass repair shops in the state. There were allegations that came before us that the large insurance companies were trying to divert their customers who had broken their windshields to shops who had a contract with the insurance company. Other repair shops came in and said they needed some legislation. We passed legislation to fix that particular point. When a person's windshield is broken, they can take it to any shop to get it repaired. We need to tweak the bill a little bit. It won't take long.

**Proponents' Testimony:**

**Greg Van Horssen, State Farm Insurance.** State Farm was involved in the drafting of the 1993 bill. This proposed amendment does not change the effect of the 1993 legislation. It allows for an insurance company to employ the services of a third party administrator to handle claims and pay for automobile glass repair work. Currently under the law, a person may not manage, handle or arrange auto glass replacement or repair work for which the glass broker retains a percentage of the claim. Arguably, this third party administrator would be a person for purposes of that law. So there is a concern that the employment of a third party administrator would be prohibited by the current law. That is why this amendment is before the committee. It is important for the committee to understand that these changes do not change the prohibitions of the 1993 legislation which was drafted jointly by the insurance industry and the auto glass repair industry. By allowing insurers to employ the services of a third party administrator, there will be more efficient claims processing and a quicker payment to the folks who are doing the repair work. I would ask the committee for a do concur recommendation on HB 478. **Jacqueline Lenmark, American Insurance Association,** could not be here today but asked me to enter her organization's support for this bill as well.

**Charles Brooks, MT Independent Glass Dealers Association.** I was involved in the crafting of the legislation in 1993. We stand in strong support of this bill and feel this is a necessary change and it will benefit our members.

**Frank Cote, Deputy Insurance Commissioner.** We were the referees between the two parties in 1993. We don't think this bill will have any adverse impact on the consumer.

**Opponents' Testimony:** None

**Questions From Committee Members and Responses:**

**SEN. STEVE BENEDICT** asked why the reference on page 1, line 22 and 23 to the "or a set fee paid by the insurance company to the glass repair shop for an amount in excess of the amount paid to the glass repair shop" was taken out? That does change the intent of the law. **Mr. Van Horssen** said that he was not prepared to answer that question right now. He said that he would check on this and get an answer to this as quickly as possible.

**SEN. CASEY EMERSON** asked why the marketplace could not take care of this problem itself? **REP. WISEMAN** said that apparently there is a fear that by putting in a third person in there they would be violating the law. So they asked for the law to clarify who a glass broker is. The glass broker would be the person that the small glass shop would turn the claim into. That glass shop would be paid by the broker. The broker consolidates the bills

and would send a bill to the big insurance companies once a month.

**SEN. BENEDICT** offered his answer to the above question. The answer still did not answer **SEN. EMERSON'S** question.

**Mr. Brooks** offered his answer but it did not address the question.

Closing by Sponsor:

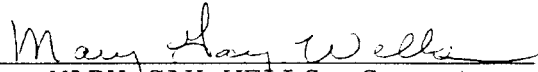
**REP. WISEMAN** closed. Again, we are not changing the original intent of the 1993 bill. With a third party glass broker, the small repair shop can be paid sooner. That is the main objective of the bill. Thank you for your time.

ADJOURNMENT

Adjournment: 10:08 A.M.



SEN. JOHN R. HERTEL, Chairman



MARY GAY WELLS, Secretary

JH/MGW