

1 H BILL NO. 387
 2 INTRODUCED BY Mark George White
 3 Gilbert Bradley

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR
 5 LICENSING OF PERSONS TO SELL, DISPENSE, OR GIVE AWAY
 6 PROPHYLACTICS AND TO PERMIT ADVERTISING FOR CONTRACEPTIVES
 7 AND PROPHYLACTICS IN A TASTEFUL AND DISCREET MANNER;
 8 AMENDING SECTION 94-8-110.2, R.C.M. 1947."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 94-8-110.2, R.C.M. 1947, is
 12 renumbered 66-1515.1 and is amended to read as follows:

13 "94-8-110.2 66-1515.1. Contraceptive drugs or devices.
 14 (1) It shall be is unlawful for any person, ~~firm,~~
 15 ~~corporation, copartnership or association~~ to sell, offer for
 16 sale, give away, through the medium of vending machines,
 17 personal or collective distribution, by solicitation,
 18 peddling or in any other manner whatsoever contraceptive
 19 drugs or devices, prophylactic rubber goods or other
 20 articles for the prevention of venereal diseases. The
 21 foregoing provisions shall not apply to:

- 22 (a) regularly licensed practitioners of medicine,
- 23 osteopathy or other licensed persons practicing other
- 24 healing arts, and registered pharmacists, ~~nor to~~
- 25 (b) wholesale drug jobbers or manufacturers who sell

1 to retail stores only; ~~or~~
 2 (c) persons licensed as provided in subsections (3)
 3 through (7).

4 (2) (a) Contraceptives or prophylactic products may be
 5 advertised only in a discreet and tasteful manner: It shall
 6 ~~be unlawful to exhibit or display prophylactics or~~
 7 ~~contraceptives in any show window, upon the streets, or in~~
 8 ~~any public place other than in the place of business of a~~
 9 ~~licensed pharmacist, or to advertise such in any magazine,~~
 10 ~~newspaper or other form of publication, originating in, or~~
 11 ~~published within the state of Montana, to publish, or~~
 12 ~~distribute from house to house or upon the streets, any~~
 13 ~~circular, booklet or other form of advertising, or by other~~
 14 ~~visual means, or by auditory method or by radio broadcast,~~
 15 ~~or by the use of outside signs on stores, billboards, window~~
 16 ~~displays or other advertising visible to persons upon the~~
 17 ~~streets or public highways; provided, however, that nothing~~
 18 ~~in this act shall prevent the advertising of prophylactics~~
 19 ~~or contraceptives in the trade press of those magazines~~
 20 ~~whose principal circulation is to the medical and~~
 21 ~~pharmaceutical professions; or to those magazines and other~~
 22 ~~publications having interstate circulation, originating~~
 23 ~~outside of the state of Montana where the advertising does~~
 24 ~~not violate any United States law or federal postal~~
 25 ~~regulation; nor to the furnishing within the store or place~~

1 ~~of business of a licensed pharmacist, to persons qualified~~
 2 ~~to purchase, and then only upon their inquiry, such printed~~
 3 ~~or other information as is requisite to proper use in~~
 4 ~~relation to any merchandise coming within the provisions of~~
 5 ~~this act [section].~~

6 ~~Provided, nothing~~

7 (b) Nothing herein shall prevent the dissemination of
 8 medically acceptable contraceptive information by printed or
 9 other methods concerning the availability and use of any
 10 merchandise coming within the provisions of this act
 11 section.

12 ~~(3) Any officer of the law shall have the power to~~
 13 ~~cause the arrest of any person violating any provision of~~
 14 ~~this act, to seize stocks illegally held, and to make~~
 15 ~~seizure of any mechanical device or vending machine~~
 16 ~~containing any merchandise coming within the provisions of~~
 17 ~~this act, holding the owner of such machine, the occupier~~
 18 ~~and the owner of the premises where seizure is made to be in~~
 19 ~~violation of this act [section].~~ For purposes of this
 20 section:

21 (a) "prophylactics" means a nonprescriptive chemical,
 22 article, or object used for the purpose of preventing
 23 venereal disease;

24 (b) "person" means an individual, public or private
 25 corporation, company, association, or partnership;

1 (c) "board" means the board of pharmacists provided
 2 for in 82A-1602.21.

3 (4) All prophylactics may be sold, dispensed, or given
 4 away by a person licensed under this section. The board
 5 shall issue such a license to any person complying with this
 6 section and the rules of the board promulgated under
 7 subsection (7).

8 (5) (a) The license fee is \$10 and is payable annually
 9 to the board. The license is valid for 1 year commencing
 10 July 1 and ending June 30.

11 (b) A person seeking a license to sell, dispense, or
 12 give away prophylactics shall apply on the forms provided by
 13 the board and supply the information required by the board.

14 (c) A separate license is required at each separate
 15 place of business or vending machine location.

16 (6) (a) The application for a license shall be
 17 considered by the board together with such other facts as
 18 may be necessary to determine whether the license should be
 19 issued.

20 (b) The board may suspend, revoke, or refuse to renew
 21 any license but only after notice and a hearing. The
 22 grounds for suspension or revocation may be any one of the
 23 following:

24 (i) violation of a rule of the board;

25 (ii) a false representation in the application for

1 issuance or renewal of a license.

2 (7) The board may make rules for the proper
3 administration of this section.

4 ~~(4)(8)~~ Any person, or any member of a firm, or
5 copartnership or the officers of a corporation or
6 association who or which knowingly violates any of the
7 provisions of this act shall be guilty of a misdemeanor, and
8 shall, upon conviction, be punished by a fine not to exceed
9 ~~five hundred dollars (\$500),~~ or by imprisonment of not to
10 exceed ~~six (6)~~ months in the county jail, or both, ~~provided,~~
11 ~~however, that the.~~ The justice of the peace courts and the
12 district courts of the state shall have concurrent
13 jurisdiction in all prosecutions and causes arising under
14 this ~~act~~ section."

-End-

STATE OF MONTANA

REQUEST NO. 204-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 25, 19 77, there is hereby submitted a Fiscal Note for House Bill 388 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 388 is an act appropriating \$66,000 to the Office of the Governor to create and administer the Cabin Creek task force, and providing that any federal funds received be deposited to the General Fund.

FISCAL IMPACT:

Since this is an appropriation bill, the only fiscal impact not readily apparent would be the amount of federal funds which might be received. At this time, we are unable to determine whether there will be any federal money available for this project.

Richard L. Dwyer
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-31-77

STATE OF MONTANA

REQUEST NO. 236-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 26, 19 77, there is hereby submitted a Fiscal Note for House Bill 387 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide for licensing of persons dispensing prophylactics and to permit advertising.

ASSUMPTIONS:

1. License fee to be \$10 annually.
2. 500 licenses are anticipated.
3. This licensing act will be absorbed by the Board of Pharmacy with minimal effect on present operations.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Estimated revenue	\$5,000	\$5,000
Estimated expenditures	<u>150</u>	<u>150</u>
Additional revenue to Board of Pharmacy	<u>\$4,850</u>	<u>\$4,850</u>

Richard L. Dancy for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-1-77

Public Health, Welfare & Safety

Objection Raised to Adverse Committee Report

1 INTRODUCTION BY H BILL NO. 387
Mark George Wade
Gilbert Bradley

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9 licensed pharmacist, or to advertise such in any magazine,
10 newspaper or other form of publication, originating in, or
11 published within the state of Montana, to publish, or
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13 circular, booklet or other form of advertising, or by other
14 visual means, or by auditory method or by radio broadcast,
15 or by the use of outside signs or stores, billboards, window
16 displays or other advertising visible to persons upon the
17 streets or public highways, provided, however, that nothing
18 in this act shall prevent the advertising of prophylactics
19 or contraceptives in the trade press of those magazines
20 whose principal circulation is to the medical and
21 pharmaceutical professions, or to those magazines and other
22 publications having interstate circulation, originating
23 outside of the state of Montana where the advertising does
24 not violate any United States law or federal postal
25 regulation, nor to the furnishing within the store or place

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 2 ~~to purchase, and then only upon their inquiry, such printed~~
 3 ~~or other information as is requisite to proper use in~~
 4 ~~relation to any merchandise coming within the provisions of~~
 5 ~~this act [section].~~

6 ~~Provided, nothing~~

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 22 grounds for suspension or revocation may be any one of the
 23 following:

24 (i) violation of a rule of the board;

25 (ii) a false representation in the application for

1 issuance or renewal of a license.

2 (7) The board may make rules for the proper
3 administration of this section.

4 ~~(4)~~ (8) Any person, or any member of a firm, or
5 copartnership or the officers of a corporation or
6 association who or which knowingly violates any of the
7 provisions of this act shall be guilty of a misdemeanor, and
8 shall, upon conviction, be punished by a fine not to exceed
9 ~~five hundred dollars (\$500),~~ or by imprisonment of not to
10 exceed ~~six (6)~~ months in the county jail, or both, ~~provided,~~
11 ~~however, that the.~~ The justice of the peace courts and the
12 district courts of the state shall have concurrent
13 jurisdiction in all prosecutions and causes arising under
14 this ~~act~~ section."

-End-