

CHAPTER NO. 145

SENATE BILL NO. 148

INTRODUCED BY HAZELBAKER, S. BROWN,
NORMAN, PETERSON

BY REQUEST OF THE ATTORNEY GENERAL

IN THE SENATE

January 18, 1979	Introduced and referred to Committee on Business and Industry.
February 6, 1979	Committee recommend bill do pass as amended. Report adopted.
February 7, 1979	Printed and placed on members' desks.
February 8, 1979	Second reading, do pass.
February 9, 1979	Considered correctly engrossed.
February 10, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 12, 1979	Introduced and referred to Committee on Business and Industry.
February 28, 1979	Committee recommend bill be concurred in. Report adopted.
March 1, 1979	Second reading, concurred in as amended.
March 2, 1979	Third reading, concurred in as amended.

IN THE SENATE

March 3, 1979

Returned from second house.
Concurred in as amended.

March 6, 1979

Second reading, amendments adopted.

March 8, 1979

Third reading, amendments adopted.
Sent to enrolling.

Reported correctly enrolled.

1 *Steve* BILL NO. *148*
 2 INTRODUCED BY *John J. Benen Norman*
 3 BY REQUEST OF THE ATTORNEY GENERAL *Benen*

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
 6 RELEASE OF INFORMATION IN THE POSSESSION OF INSURERS
 7 RELATING TO FIRE LOSSES; REQUIRING INSURERS TO NOTIFY
 8 APPROPRIATE AGENCIES OF SUSPICIOUS FIRE LOSSES; EXEMPTING
 9 INSURERS FROM CIVIL LIABILITY FOR FURNISHING SUCH
 10 INFORMATION OR NOTIFYING AN AGENCY; PROVIDING FOR
 11 CONFIDENTIALITY OF RELEASED INFORMATION; PROVIDING FOR
 12 TESTIMONY BY AGENCY PERSONNEL IN CIVIL ACTIONS; AND AMENDING
 13 SECTION 50-3-102, MCA."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 NEW SECTION. Section 1. Insurer to provide
 17 information regarding fire loss to certain agencies upon
 18 request. Each insurer engaged in issuing fire insurance
 19 policies in the state of Montana shall upon written request
 20 of any appropriate law enforcement or fire protection agency
 21 release to the requesting agency all information in its
 22 possession relating to a fire loss of real or personal
 23 property. The information may include but is not limited to:

24 (1) any insurance policy relevant to the fire loss
 25 under investigation and any application for such a policy;

1 (2) premium payment records;
 2 (3) the history of previous claims made by the insured
 3 for fire loss;
 4 (4) material relating to the investigation of the
 5 loss, including statements of any person, proof of loss, and
 6 other relevant evidence.

7 NEW SECTION. Section 2. Insurer to report suspicious
 8 fires. Whenever an insurer has reason to believe that a fire
 9 loss in which it has an interest may be of other than
 10 accidental cause, it shall notify an appropriate law
 11 enforcement or fire protection agency and provide such
 12 agency with all material developed from its inquiry into the
 13 fire loss.

14 NEW SECTION. Section 3. Agencies to keep information
 15 confidential. The agencies and agency personnel receiving
 16 information furnished pursuant to [sections 1 through 5]
 17 shall hold the information in confidence until such time as
 18 its release is required pursuant to a criminal or civil
 19 proceeding.

20 NEW SECTION. Section 4. Testimony of agency personnel
 21 in action to recover under insurance policy. Law enforcement
 22 and fire protection agency personnel may be required to
 23 testify as to any information in their possession regarding
 24 the fire loss of real or personal property in any civil
 25 action in which a person seeks recovery from an insurer

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 INTRODUCED BILL

1 under a policy for the fire loss.

2 **NEW SECTION.** Section 5. Exemption of insurer from
3 liability. In the absence of fraud or bad faith the insurer
4 or person who furnished information on its behalf is not
5 subject to liability in any civil action for:

- 6 (1) furnishing information as required by [section 1];
7 or
8 (2) notifying an appropriate agency of a fire loss as
9 required by [section 2].

10 Section 6. Section 50-3-102, MCA, is amended to read:

11 *50-3-102. Powers and duties of state fire marshal.

12 (1) For the purpose of reducing the state's fire loss, the
13 state fire marshal shall:

14 (a) make at least one inspection a year of each state
15 institution and submit a copy of the report to the
16 department of institutions with recommendations in regard to
17 fire prevention, fire protection, and public safety;

18 (b) make at least one inspection a year of each unit
19 of the Montana university system and submit a copy of the
20 report to the commissioner of higher education with
21 recommendations in regard to fire prevention, fire
22 protection, and public safety;

23 (c) inspect public, business, or industrial buildings
24 and require conformance to law and rules promulgated under
25 the provisions of this chapter;

1 (d) assist local fire and law enforcement authorities
2 in arson investigations and supervise such investigations
3 when, in his judgment, supervision is necessary;

4 (e) review all training programs on investigation of
5 accidental and incendiary fires;

6 (f) provide fire prevention and fire protection
7 information to public officials and the general public;

8 (g) encourage and assist local fire authorities in
9 fire prevention programs and adopt standards and implement a
10 program to encourage fire departments to meet such
11 standards;

12 (h) be the state entity primarily responsible for
13 promoting fire safety at the state level and to represent
14 the state in structural fire matters;

15 (i) encourage coordination of all services and
16 agencies in structural fire matters to reduce duplication
17 and fill voids in services;

18 (j) establish rules concerning responsibilities and
19 procedures to be followed when there is a threat of
20 explosive material in a building housing state offices;

21 (k) keep in his office a record of all fires occurring
22 in the state, the origin of the fires, and all facts,
23 statistics, and circumstances relating thereto which have
24 been determined by investigations under the provisions of
25 chapter 63 of this title; and, except for the testimony

1 given during an investigation ~~and except as provided in~~
2 [section 5], the record shall be open at all times to public
3 inspection; and

4 (1) make an annual report to the attorney general
5 containing a detailed statement of his official action and
6 the transactions of his department, and the attorney general
7 shall, in turn, submit the report to the governor with such
8 recommendations and comments thereon as he considers
9 necessary.

10 (2) The state fire marshal may:

11 (a) adopt rules necessary for safeguarding life and
12 property from the hazards of fire and explosion and carrying
13 into effect the fire prevention laws of this state; and

14 (b) if necessary to safeguard life and property under
15 rules promulgated pursuant to this section, maintain an
16 action to enjoin the use of all or a portion of a building
17 or restrain a specific activity until there is compliance
18 with the rules."

-End-

Approved by Committee
on Business and Industry

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 3 NORMAN, PETERSON
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 2 (2) premium payment records;
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 4 for fire loss;
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 6 loss, including statements of any person, proof of loss, and
 7 other relevant evidence.
 8 NEW SECTION. Section 2. Insurer to report suspicious
 9 fires. Whenever an insurer has reason to believe that a fire
 10 loss in which it has an interest may be of other than
 11 accidental cause, it shall notify an appropriate law
 12 enforcement or fire protection agency and provide such
 13 agency with all material developed from its inquiry into the
 14 fire loss.
 15 NEW SECTION. Section 3. Agencies to keep information
 16 confidential. The INSURED'S RIGHT OF INDIVIDUAL PRIVACY
 17 ALLOWS agencies and agency personnel receiving information
 18 furnished pursuant to [sections 1 through-5 AND 2] shall NO
 19 hold the information in confidence until--such--time--as
 20 UNLESS:
 21 (1) THE INSURED WAIVES HIS RIGHT OF INDIVIDUAL
 22 PRIVACY; OR
 23 (2) its release OF THE INFORMATION is required
 24 pursuant to a criminal or civil proceeding.
 25 NEW SECTION. Section 4. Testimony of agency personnel

1 in action to recover under insurance policy. Law enforcement
 2 and fire protection agency personnel may be required to
 3 testify as to any information in their possession regarding
 4 the fire loss of real or personal property in any civil
 5 action in which a person seeks recovery from an insurer
 6 under a policy for the fire loss.

7 NEW SECTION. Section 5. Exemption of insurer from
 8 liability. In the absence of fraud or bad faith the insurer
 9 or person who furnished information on its behalf is not
 10 subject to liability in any civil action for:

11 (1) furnishing information as required by [section 1];
 12 or

13 (2) notifying an appropriate agency of a fire loss as
 14 required by [section 2].

15 Section 6. Section 50-3-102, MCA, is amended to read:
 16 *50-3-102. Powers and duties of state fire marshal.

17 (1) For the purpose of reducing the state's fire loss, the
 18 state fire marshal shall:

19 (a) make at least one inspection a year of each state
 20 institution and submit a copy of the report to the
 21 department of institutions with recommendations in regard to
 22 fire prevention, fire protection, and public safety;

23 (b) make at least one inspection a year of each unit
 24 of the Montana university system and submit a copy of the
 25 report to the commissioner of higher education with

1 recommendations in regard to fire prevention, fire
 2 protection, and public safety;

3 (c) inspect public, business, or industrial buildings
 4 and require conformance to law and rules promulgated under
 5 the provisions of this chapter;

6 (d) assist local fire and law enforcement authorities
 7 in arson investigations and supervise such investigations
 8 when, in his judgment, supervision is necessary;

9 (e) review all training programs on investigation of
 10 accidental and incendiary fires;

11 (f) provide fire prevention and fire protection
 12 information to public officials and the general public;

13 (g) encourage and assist local fire authorities in
 14 fire prevention programs and adopt standards and implement a
 15 program to encourage fire departments to meet such
 16 standards;

17 (h) be the state entity primarily responsible for
 18 promoting fire safety at the state level and to represent
 19 the state in structural fire matters;

20 (i) encourage coordination of all services and
 21 agencies in structural fire matters to reduce duplication
 22 and fill voids in services;

23 (j) establish rules concerning responsibilities and
 24 procedures to be followed when there is a threat of
 25 explosive material in a building housing state offices;

1 (k) keep in his office a record of all fires occurring
2 in the state, the origin of the fires, and all facts,
3 statistics, and circumstances relating thereto which have
4 been determined by investigations under the provisions of
5 chapter 63 of this title; and, except for the testimony
6 ~~STATEMENTS OF WITNESSES~~ given during an investigation and
7 ~~except as provided in~~ INFORMATION THAT MAY BE HELD IN
8 CONFIDENCE UNDER [section 2 3], the record shall be open at
9 all times to public inspection; and

10 (l) make an annual report to the attorney general
11 containing a detailed statement of his official action and
12 the transactions of his department, and the attorney general
13 shall, in turn, submit the report to the governor with such
14 recommendations and comments thereon as he considers
15 necessary.

16 (2) The state fire marshal may:

17 (a) adopt rules necessary for safeguarding life and
18 property from the hazards of fire and explosion and carrying
19 into effect the fire prevention laws of this state; and

20 (b) if necessary to safeguard life and property under
21 rules promulgated pursuant to this section, maintain an
22 action to enjoin the use of all or a portion of a building
23 or restrain a specific activity until there is compliance
24 with the rules."

-End-

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NORMAN, PETERSON

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Insurer to provide information regarding fire loss to certain agencies upon request. Each insurer engaged in issuing fire insurance policies in the state of Montana shall upon written request of any appropriate law enforcement or fire protection agency release to the requesting agency all information in its possession relating to a fire loss of real or personal property. The information may include but is not limited to:

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NEW SECTION. Section 3. Agencies to keep information confidential. The INSURED'S RIGHT OF INDIVIDUAL PRIVACY ALLOWS agencies and agency personnel receiving information furnished pursuant to [sections 1 through 5 AND 2] shall NOT hold the information in confidence until--such--time--as UNLESS:

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-End-

March 1, 1979
HOUSE OF REPRESENTATIVES

COMMITTEE OF THE WHOLE AMENDMENTS to SENATE BILL NO. 148, third
reading copy:

1. Page 2, line 17.
Following: line 16
Strike: "ALLOWS"
Insert: "requires"

AND AS AMENDED, BE CONCURRED IN.