

SENATE BILL 183

IN THE SENATE

January 19, 1979

Introduced and referred to  
Committee on Judiciary.

January 26, 1979

Committee recommend bill,  
do not pass.

1 *Senate* BILL NO. *183*  
 2 INTRODUCED BY *Van Dellenburg, Scott*

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 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE  
 5 CRIMINAL OFFENSE OF CRIMINAL DEFAMATION FROM THE CRIMINAL  
 6 CODE; AMENDING SECTION 45-2-311, MCA; AND REPEALING SECTION  
 7 45-8-212, MCA."

8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 45-2-311, MCA, is amended to read:

11 "45-2-311. Criminal responsibility of corporations-

12 (1) A corporation may be prosecuted for the commission of an  
 13 offense if, but only if:

14 (a) the offense is a misdemeanor and is defined by  
 15 45-5-204, 45-6-315, 45-6-317, 45-6-318, 45-6-326, 45-6-327,  
 16 45-8-113, 45-8-114, ~~45-8-212~~ or 45-8-214 or by another  
 17 statute which clearly indicates a legislative purpose to  
 18 impose liability on a corporation and an agent of the  
 19 corporation performs the conduct which is an element of the  
 20 offense while acting within the scope of his office or  
 21 employment and in behalf of the corporation, except that any  
 22 limitation in the defining statute concerning the  
 23 corporation's accountability for certain agents or under  
 24 certain circumstances is applicable; or

25 (b) the commission of the offense is authorized,

1 requested, commanded, or performed by the board of directors  
 2 or by a high managerial agent who is acting within the scope  
 3 of his employment in behalf of the corporation.

4 (2) A corporation's proof that the high managerial  
 5 agent having supervisory responsibility over the conduct  
 6 which is the subject matter of the offense exercised due  
 7 diligence to prevent the commission of the offense is a  
 8 defense to a prosecution for any offense to which subsection  
 9 (1)(a) refers, other than an offense for which absolute  
 10 liability is imposed. This subsection is inapplicable if the  
 11 legislative purpose of the statute defining the offense is  
 12 inconsistent with the provisions of this subsection.

13 (3) For the purposes of this section:

14 (a) "agent" means any director, officer, servant,  
 15 employee, or other person who is authorized to act in behalf  
 16 of the corporation;

17 (b) "high managerial agent" means an officer of the  
 18 corporation or any other agent who has a position of  
 19 comparable authority for the formulation of corporate policy  
 20 or the supervision of subordinate employees in a managerial  
 21 capacity."

22 Section 2. Repealer. Section 45-8-212, MCA, is  
 23 repealed.

-End-

-2- *SB 183*  
 INTRODUCED BILL