

HOUSE BILL NO. 409

INTRODUCED BY KEYSER, KEEDY, PAVLOVICH,
QUILICI, DAILY, MARKS, HUENNEKENS

IN THE HOUSE

January 21, 1981	Introduced and referred to Committee on Business and Industry.
February 18, 1981	Committee recommend bill do pass as amended. Report adopted.
February 19, 1981	Bill printed and placed on members' desks.
February 21, 1981	Second reading, do pass as amended.
February 23, 1981	Considered correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 81; Noes, 18. Transmitted to Senate.

IN THE SENATE

March 2, 1981	Introduced and referred to Committee on Business and Industry.
March 16, 1981	Committee recommend bill be concurred in. Report adopted.
March 18, 1981	Motion pass consideration.
March 19, 1981	Second reading, concurred in.
March 21, 1981	Third reading, concurred in. Ayes, 47; Noes, 1.

IN THE HOUSE

March 23, 1981	Returned from Senate. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 HOUSE BILL NO. 409
2 INTRODUCED BY *Keye Keedey Carlson* *Emilia*
3 *Dale Mark Henshaw*
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING FAIR TRADE
5 PRACTICES FOR THE DISTRIBUTION AND EXHIBITION OF MOTION
6 PICTURE FILMS; PROHIBITING BLIND BIDDING; PROHIBITING
7 PAYMENT OF MINIMUM GUARANTEES ON PERCENTAGE PICTURES;
8 PROVIDING INFORMATION ON TRADE SCREENINGS; PROHIBITING
9 ADVANCES AS SECURITY."

10

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

12 Section 1. **Short title.** This act shall be known and
13 may be cited as the "Motion Picture Fair Trade Practices
14 Act".

15 Section 2. **Purpose.** The purposes of this act are to
16 establish fair and open procedures for the licensing of
17 motion pictures within the state; to prevent unfair and
18 deceptive acts or practices and unreasonable restraints of
19 trade in the business of motion picture distribution within
20 the state; to promote fair and effective competition in that
21 business; and to benefit the moviegoing public by holding
22 down admission prices to motion picture theaters, expanding
23 the choice of motion pictures available to the public, and
24 preventing exposure of the public to objectionable or
25 unsuitable motion pictures by ensuring that exhibitors have

1 the opportunity to view a picture before committing
2 themselves to exhibit it.

3 Section 3. Definitions. As used in [this act], unless
4 the context requires otherwise, the following definitions
5 apply:

6 (1) "Bidding bidding" means bidding, negotiating,
7 offering terms, making an invitation to bid, or agreeing to
8 terms for the purpose of entering into a license agreement
9 prior to a trade screening of the motion picture that is the
10 subject of the agreement.

11 (2) "Distributor" means any person engaged in the
12 business of renting, selling, or licensing motion pictures
13 to exhibitors.

14 (3) "Exhibitor" means any person engaged in the
15 business of operating a theater in this state.

16 (4) "License agreement" means any contract between a
17 distributor and an exhibitor for the exhibition of a motion
18 picture by the exhibitor in this state.

19 (5) "Market area" means either Salt Lake City, Utah,
20 or a major city in Montana.

21 (6) "Theater" means any establishment in which motion
22 pictures are exhibited regularly to the public for a charge.

23 (7) "Trade screening" means the showing of a motion
24 picture by a distributor in the market area. Such showing
25 shall be open to any exhibitor interested in exhibiting the

1 motion picture, and such exhibitor or his buying agency will
 2 be notified of such trade screening.

3 Section 4. Blind bidding prohibited. No distributor or
 4 exhibitor may engage in blind bidding.

5 Section 5. License agreements -- unlawful provisions.
 6 (1) It is unlawful for any license agreement that provides
 7 for a fee or other payment to the distributor based in whole
 8 or in part on the attendance or the box office receipts at a
 9 theater within the state to contain or be conditioned upon a
 10 guarantee of a minimum payment to the distributor.

11 (2) Any provision, agreement, or understanding that
 12 provides for such a guarantee is void, and any purported
 13 waiver of the prohibition in subsection (1) is void and
 14 unenforceable.

15 (3) It is unlawful for any license agreement that
 16 provides for a fee or other payment to the distributor based
 17 in whole or in part on the attendance or the box office
 18 receipts at a theater within the state to contain or be
 19 conditioned upon a per capita requirement defining minimum
 20 charge per ticket category that the theater owner must
 21 charge for patrons attending the motion picture.

22 Section 6. Bid requirements. If bids are solicited
 23 from exhibitors for the purpose of entering into a license
 24 agreement, the invitation to bid shall include the date,
 25 time, and location of the trade screening of the motion

1 picture that is the subject of the invitation to bid.

2 Section 7. Advance payments as security prohibited.
 3 (1) It is unlawful for any license agreement for the
 4 exhibition of a motion picture at a theater within the state
 5 to contain or be conditioned upon a provision, agreement, or
 6 understanding that the exhibitor shall advance any funds
 7 prior to the exhibition of the picture as security for the
 8 performance of the license agreement or to be applied to
 9 payments under such agreement.

10 (2) Any provision, agreement, or understanding which
 11 provides for such an advance is void, and any purported
 12 waiver of the prohibition in subsection (1) is void and
 13 unenforceable.

14 Section 8. Void acts. Any provision of an invitation
 15 to bid or a license agreement that waives any of the
 16 prohibitions of or fails to comply with [this act] is void
 17 and unenforceable.

18 Section 9. Violation a misdemeanor. It is unlawful for
 19 any person to willfully violate any provision of [this act].
 20 Any such violation constitutes a misdemeanor, and the
 21 violator shall be punished as provided in 46-18-212.

22 Section 10. Severability. If a part of this act is
 23 invalid, all valid parts that are severable from the invalid
 24 part remain in effect. If a part of this act is invalid in
 25 one or more of its applications, the part remains in effect

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1 in all valid applications that are severable from the
2 invalid applications.

-End-

-5-

HB 409

Approved by Committee
on Business and Industry

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21 the state; to promote fair and effective competition in that
22 business; and to benefit the moviegoing public by holding
23 down admission prices to motion picture theaters, expanding
24 the choice of motion pictures available to the public, and
25 preventing exposure of the public to objectionable or

1 unsuitable motion pictures by ensuring that exhibitors have
2 the opportunity to view a picture before committing
3 themselves to exhibit it.

4 Section 3. Definitions. As used in [this act], unless
5 the context requires otherwise, the following definitions
6 apply:

7 (1) "blind bidding" means bidding, negotiating,
8 offering terms, making an invitation to bid, or agreeing to
9 terms for the purpose of entering into a license agreement
10 prior to a trade screening of the motion picture that is the
11 subject of the agreement.

12 (2) "Distributor" means any person engaged in the
13 business of renting, selling, or licensing motion pictures
14 to exhibitors.

15 (3) "Exhibitor" means any person engaged in the
16 business of operating a theater in this state.

17 (4) "License agreement" means any contract between a
18 distributor and an exhibitor for the exhibition of a motion
19 picture by the exhibitor in this state.

20 (5) "Market area" means either Salt-Lake-City-Utah
21 or a major city in Montana OR A CITY IN ANY OF THE 11
22 WESTERN STATES THAT PROHIBITS BLIND BIDDING.

23 (6) "Theater" means any establishment in which motion
24 pictures are exhibited regularly to the public for a charge.

(v) Trade screening means the showing of a notation

1 picture by a distributor in the market area. Such showing
 2 shall be open to any exhibitor interested in exhibiting the
 3 motion picture, and such exhibitor or his buying agency will
 4 be notified of such trade screening.

5 Section 4. Blind bidding prohibited. No distributor or
 6 exhibitor may engage in blind bidding.

7 Section 5. License agreements -- unlawful provisions.
 8 (1) It is unlawful for any license agreement that provides
 9 for a fee or other payment to the distributor based in whole
 10 or in part on the attendance or the box office receipts at a
 11 theater within the state to contain or be conditioned upon a
 12 guarantee of a minimum payment to the distributor.

13 (2) Any provision, agreement, or understanding that
 14 provides for such a guarantee is void, and any purported
 15 waiver of the prohibition in subsection (1) is void and
 16 unenforceable.

17 ~~(3) It is unlawful for any license agreement that provides for a fee or other payment to the distributor based in whole or in part on the attendance or the box office receipts at a theater within the state to contain or be conditioned upon a per capita requirement defining minimum charge per ticket category that the theater owner must charge for patrons attending the motion picture.~~

24 Section 6. Bid requirements. If bids are solicited
 25 from exhibitors for the purpose of entering into a license

1 agreement, the invitation to bid shall include the date,
 2 time, and location of the trade screening of the motion
 3 picture that is the subject of the invitation to bid.

4 Section 7. Advance payments as security prohibited
 5 ~~(1) It is unlawful for any license agreement for the exhibition of a motion picture at a theater within the state to contain or be conditioned upon a provision of any funds prior to the exhibition of the picture as security for the performance of the license agreement or to be applied to payments under such agreement.~~

12 ~~(2) Any provision, agreement, or understanding which provides for such an advance is void and any purported waiver of the prohibition in subsection (1) is void and unenforceable.~~

16 Section 7. Void acts. Any provision of an invitation to bid or a license agreement that waives any of the prohibitions of or fails to comply with [this act] is void and unenforceable.

20 Section 8. Violation a misdemeanor. It is unlawful for any person to willfully violate any provision of [this act].
 21 Any such violation constitutes a misdemeanor, and the violator shall be punished as provided in 46-18-212.

24 Section 9. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid

1 part remain in effect. If a part of this act is invalid in
2 one or more of its applications, the part remains in effect
3 in all valid applications that are severable from the
4 invalid applications.

-End-

5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING FAIR TRADE
6 PRACTICES FOR THE DISTRIBUTION AND EXHIBITION OF MOTION
7 PICTURE FILMS; PROHIBITING BLIND BIDDING; PROHIBITING
8 PAYMENT OF MINIMUM GUARANTEES ON PERCENTAGE PICTURES;
9 PROVIDING INFORMATION ON TRADE SCREENINGS--PROHIBITING
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16 Section 2. Purpose. The purposes of this act are to
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19 deceptive acts or practices and unreasonable restraints of
20 trade in the business of motion picture distribution within
21 the state; to promote fair and effective competition in that
22 business; and to benefit the moviegoing public by holding
23 down admission prices to motion picture theaters, expanding
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25 preventing exposure of the public to objectionable or

1 unsuitable motion pictures by ensuring that exhibitors have
2 the opportunity to view a picture before committing
3 themselves to exhibit it.

4 Section 3. Definitions. As used in [this act], unless
5 the context requires otherwise, the following definitions
6 apply:

7 (1) "Blind bidding" means bidding, negotiating,
8 offering terms, making an invitation to bid, or agreeing to
9 terms for the purpose of entering into a license agreement
10 prior to a trade screening of the motion picture that is the
11 subject of the agreement.

12 (2) "Distributor" means any person engaged in the
13 business of renting, selling, or licensing motion pictures
14 to exhibitors.

15 (3) "Exhibitor" means any person engaged in the
16 business of operating a theater in this state.

17 (4) "License agreement" means any contract between a
18 distributor and an exhibitor for the exhibition of a motion
19 picture by the exhibitor in this state.

20 (5) "Market area" means either Salt-Lake-City-Utah
21 or a major city in Montana OR A CITY IN ANY OF THE 11
22 WESTERN STATES THAT PROHIBITS BLIND BIDDING.

23 (6) "Theater" means any establishment in which motion
24 pictures are exhibited regularly to the public for a charge.

25 (7) "Trade screening" means the showing of a motion

1 picture by a distributor in the market area. Such showing
 2 shall be open to any exhibitor interested in exhibiting the
 3 motion picture, and such exhibitor or his buying agency will
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 6 exhibitor may engage in blind bidding.

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 8 (1) It is unlawful for any license agreement that provides
 9 for a fee or other payment to the distributor based in whole
 10 or in part on the attendance or the box office receipts at a
 11 theater within the state to contain or be conditioned upon a
 12 guarantee of a minimum payment to the distributor.

13 (2) Any provision, agreement, or understanding ENTERED
 14 INTO AFTER [THE EFFECTIVE DATE OF THIS ACT] that provides
 15 for such a guarantee is void, and any purported waiver of
 16 the prohibition in subsection (1) is void and unenforceable.

17 {3}--it--is--unlawful--for--any--license-agreement--that
 18 provides-for-a-fee-or-other-payment-to-the-distributor-based
 19 in-whole-or-in-part-on-the--attendance--or--the--box--office
 20 receipts--at--a--theater--within--the-state-to-contain-or-be
 21 conditioned-upon-a-per-capita-requirement--defining--minimum
 22 charge--per--ticket--category--that--the--theater-owner-must
 23 charge-for-patrons-attending-the-motion-picture.

24 Section 6. Bid requirements. If bids are solicited
 25 from exhibitors for the purpose of entering into a license

1 agreement, the invitation to bid shall include the date,
 2 time, and location of the trade screening of the motion
 3 picture that is the subject of the invitation to bid.

4 Section 7. Advance payments as security prohibited.
 5 {1}--it--is--unlawful--for--any--license--agreement--for-the
 6 exhibition-of-a-motion-picture-at-a-theater-within-the-state
 7 to-contain-or-be-conditioned-upon-a-provisional-agreement--or
 8 understanding--that--the-exhibitor--shall--advance--any--funds
 9 prior--to--the-exhibition-of-the-picture-as-security--for--the
 10 performance--of--the--license--agreement--or--to--be--applied--to
 11 payments--under--such--agreement.

12 {2}--Any--provision--agreement--or--understanding--which
 13 provides--for--such--an--advance--is--void--and--any--purported
 14 waiver--of--the--prohibition--in--subsection-{1}--is--void--and
 15 unenforceable.

16 Section 7. Void acts. Any provision of an invitation
 17 to bid or a license agreement ENTERED INTO AFTER [THE
EFFECTIVE DATE OF THIS ACT] that waives any of the
 19 prohibitions of or fails to comply with [this act] is void
 20 and unenforceable.

21 Section 8. Violation a misdemeanor. It is unlawful for
 22 any person to willfully violate any provision of [this act].
 23 Any such violation constitutes a misdemeanor, and the
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