

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, Feely, Radwin, Luliani*  
 3 *Daily, Mark, Hernandez*  
 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) "Blind 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-

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Approved by Committee  
on Business and Industry

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

13 Section 1. Short title. This act shall be known and  
14 may be cited as the "Motion Picture Fair Trade Practices  
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16 Section 2. Purpose. The purposes of this act are to  
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18 motion pictures within the state; to prevent unfair and  
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  
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  
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4 Section 3. Definitions. As used in [this act], unless  
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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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8 (1) It is unlawful for any license agreement that provides  
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 25 from exhibitors for the purpose of entering into a license

1 agreement, the invitation to bid shall include the date,  
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 3 picture that is the subject of the invitation to bid.

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 5 ~~(1) It is unlawful for any license agreement for the~~  
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16 Section 7. Void acts. Any provision of an invitation  
 17 to bid or a license agreement that waives any of the  
 18 prohibitions of or fails to comply with [this act] is void  
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 21 any person to willfully violate any provision of [this act].  
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13 (2) Any provision, agreement, or understanding ENTERED  
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17 ~~{3}--it--is--unlawful--for--any--license--agreement--that~~  
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