

HOUSE BILL NO. 797

INTRODUCED BY BENNETT, MENAHAN, AZZARA, SEIFERT,  
HEMSTAD, CONN, KEYSER, DEVLIN, SWITZER,  
WINSLOW, SIVERTSEN, GOULD, NILSON, PAVLOVICH

IN THE HOUSE

February 17, 1981	Introduced and referred to Committee on Human Services.
February 21, 1981	Committee recommend bill do pass as amended. Report adopted.
February 23, 1981	Bill printed and placed on members' desks.
February 24, 1981	Second reading, do pass.  On motion rules suspended and bill placed on third reading this day.
February 25, 1981	Third reading, passed. Ayes, 89; Noes, 7. Transmitted to Senate.

IN THE SENATE

March 3, 1981	Introduced and referred to Committee on Public Health, Welfare, and Safety.
March 26, 1981	Committee recommend bill be not concurred in. Report adopted.

IN THE HOUSE

March 27, 1981	Returned from Senate not concurred in.  On motion the Senate request for return of HB 797 for further consideration be granted. Motion adopted.  Returned to Senate.
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IN THE SENATE

March 27, 1981

On motion Senate reconsider its action taken on adverse committee report. Motion adopted.

On motion Senate requests return of House Bill No. 797 from House for further consideration.

March 28, 1981

Returned from House.

On motion placed on second reading.

March 30, 1981

Motion pass consideration.

March 31, 1981

Second reading, concurred in.

On motion rules suspended. Bill placed on calendar for third reading this day and allowed to be transmitted on 71st legislative day. Motion adopted.

Third reading, concurred in. Ayes, 33; Noes, 16.

IN THE HOUSE

April 1, 1981

Returned from Senate. Concurred in. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 797  
 2 INTRODUCED BY *Bennett Menahan* *Safe*  
 3 *Spotted Cow* *Keyes* *Devlin* *Switzer* *Under*  
 4 *Walters* *Carlson* *Nelson*  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE SALE  
 6 BY PRESCRIPTION OF DIMETHYL SULFOXIDE (DMSO); AMENDING  
 7 SECTION 50-31-311, MCA."

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

9 Section 1. Section 50-31-311, MCA, is amended to read:  
 10 "50-31-311. New drug application required. (1) No  
 11 ~~shall~~ Except as provided in [sections 2 through 3], no person  
 12 ~~may~~ sell, deliver, offer for sale, hold for sale, or  
 13 give away any new drug unless:

14 (a) an application with respect thereto has been  
 15 approved and said approval has not been withdrawn under  
 16 section 505 of the federal act; or

17 (b) when not subject to the federal act, such drug has  
 18 been tested and has been found to be safe for use and  
 19 effective in use under the conditions prescribed,  
 20 recommended, or suggested in the labeling thereof and, prior  
 21 to selling or offering for sale such drug, there has been  
 22 filed with the department an application setting forth:

23 (i) full reports of investigations which have been  
 24 made to show whether or not such drug is safe for use and  
 25 whether such drug is effective in use;

1 (ii) a full list of the articles used as components of  
 2 such drug;

3 (iii) a full statement of the composition of such drug;

4 (iv) a full description of the methods used in, and the  
 5 facilities and controls used for, the manufacture,  
 6 processing, and packing of such drug;

7 (v) such samples of such drug and of the articles used  
 8 as components thereof as the department may require; and

9 (vi) specimens of the labeling proposed to be used for  
 10 such drug.

11 (2) An application provided for in subsection (1)(b)  
 12 shall become effective on the 180th day after the filing  
 13 thereof, except that, if the department finds, after due  
 14 notice to the applicant and giving him an opportunity for a  
 15 hearing, that the drug is not safe or not effective for use  
 16 under the conditions prescribed, recommended, or suggested  
 17 in the proposed labeling thereof, it shall, prior to the  
 18 effective date of the application, issue an order refusing  
 19 to permit the application to become effective.

20 (3) An order refusing to permit an application under  
 21 this section to become effective may be revoked by the  
 22 department."

23 NEW SECTION. Section 2. DMSO defined. As used in  
 24 [sections 2 through 3], "DMSO" means dimethyl sulfoxide.

25 NEW SECTION. Section 3. DMSO authorized. The

1 manufacture, sale, possession, and distribution of DMSO are  
 2 lawful within this state. However, distribution or sale of  
 3 DMSO for human use must be by prescription in accordance  
 4 with 50-31-307. A person who violates this section is  
 5 subject to the penalties provided for in 50-31-506.

6 NEW SECTION. Section 4. Hospital not to interfere. A  
 7 hospital or health care facility may not interfere with the  
 8 physician-patient relationship by restricting or forbidding  
 9 the use of DMSO when requested by a patient and prescribed  
 10 or administered by a physician.

11 NEW SECTION. Section 5. Health care facility  
 12 nonliability. No hospital, health care facility, or employee  
 13 thereof shall be held liable for the administration of DMSO  
 14 to any person at the direction of a physician licensed in  
 15 Montana.

16 NEW SECTION. Section 6. Physician not subject to  
 17 disciplinary action. A physician may not be subjected to  
 18 disciplinary action by the board of medical examiners for  
 19 prescribing or administering DMSO to a patient under his  
 20 care as an adjunct to recognized, customary, or accepted  
 21 modes of therapy in the treatment of any malignancy,  
 22 disease, illness, or physical condition.

23 NEW SECTION. Section 7. DMSO not endorsed. [Sections  
 24 2 through 8] are not an endorsement of DMSO for the  
 25 treatment of any malignancy, disease, illness, or physical

1 condition.

2 NEW SECTION. Section 8. DMSO optional. [Sections 2  
 3 through 8] do not require:

- 4 (1) a physician, pharmacist, pharmacy, manufacturer,  
 5 or distributor to manufacture, sell, or distribute DMSO; or  
 6 (2) a physician to prescribe DMSO for any patient.

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Approved by Comm. On Human Services

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