

Senate Bill 324

In The Senate

January 29, 1981

Introduced and referred  
to Committee on Business  
and Industry.

April 23, 1981

Died in Committee.

1 *Senate* BILL NO. 324  
 2 INTRODUCED BY *Johnson*-----  
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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE EXEMPT  
 5 TRANSACTIONS UNDER SECURITIES LAW BY CHANGING THE NUMBER OF  
 6 PERSONS TO WHOM AN OFFER MAY BE DIRECTED; AMENDING SECTION  
 7 30-10-105, MCA."  
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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 30-10-105, MCA, is amended to read:  
 11 "30-10-105. Exempt transactions. Except as in this  
 12 section expressly provided, 30-10-201 through 30-10-207  
 13 shall not apply to any of the following transactions:

- 14 (1) any nonissuer isolated transaction, whether
- 15 effected through a broker-dealer or not;
- 16 (2) (a) any nonissuer distribution of an outstanding
- 17 security by a registered broker-dealer if:
- 18 (i) a recognized securities manual contains the names
- 19 of the issuer's officers and directors, a balance sheet of
- 20 the issuer as of a date within 18 months, and a profit and
- 21 loss statement for either the fiscal year preceding that
- 22 date or the most recent year of operations; or
- 23 (ii) the security has a fixed maturity or a fixed
- 24 interest or dividend provision and there has been no default
- 25 during the current fiscal year or within the 3 preceding

1 fiscal years, or during the existence of the issuer and any  
 2 predecessors if less than 3 years, in the payment of  
 3 principal, interest, or dividends on the security;

4 (b) the commissioner may by order deny or revoke the  
 5 exemption specified in this subsection (2) with respect to a  
 6 specific security. Upon the entry of such an order, the  
 7 commissioner shall promptly notify all registered  
 8 broker-dealers that it has been entered and of the reasons  
 9 therefor and that within 15 days of the receipt of a written  
 10 request the matter will be set down for hearing. If no  
 11 hearing is requested and none is ordered by the  
 12 commissioner, the order will remain in effect until it is  
 13 modified or vacated by the commissioner. If a hearing is  
 14 requested or ordered, the commissioner, after notice of and  
 15 opportunity for hearing to all interested persons, may  
 16 modify or vacate the order or extend it until final  
 17 determination. No order under this subsection may operate  
 18 retroactively. No person may be considered to have violated  
 19 parts 1 through 3 of this chapter by reason of any offer or  
 20 sale effected after the entry of an order under this  
 21 subsection if he sustains the burden of proof that he did  
 22 not know and in the exercise of reasonable care could not  
 23 have known of the order.

24 (3) any nonissuer transaction effected by or through a  
 25 registered broker-dealer pursuant to an unsolicited order or

1 offer to buy, but the commissioner may require that the  
2 customer acknowledge upon a specified form that the sale was  
3 unsolicited and that a signed copy of each form be preserved  
4 by the broker-dealer for a specified period;

5 (4) any transaction between the issuer or other person  
6 on whose behalf the offering is made and an underwriter or  
7 among underwriters;

8 (5) any transaction by an executor, administrator,  
9 sheriff, marshal, receiver, trustee in bankruptcy, guardian,  
10 or conservator in the performance of his official duties as  
11 such;

12 (6) any transaction executed by a bona fide pledgee  
13 without any purpose of evading parts 1 through 3 of this  
14 chapter;

15 (7) any offer or sale to a bank, savings institution,  
16 trust company, insurance company, investment company as  
17 defined in the Investment Company Act of 1940, pension or  
18 profit-sharing trust, or other financial institution or  
19 institutional buyer, or to a broker-dealer, whether the  
20 purchaser is acting for itself or in some fiduciary  
21 capacity;

22 (8) any transaction pursuant to an offer directed by  
23 the offerer to not more than ~~10~~ 35 persons (other than those  
24 designated in subsection (7) of this section) in this state  
25 during any period of 12 consecutive months, whether or not

1 the offerer or any of the offerees is then present in this  
2 state, if:

3 (a) the seller reasonably believes that all the buyers  
4 are purchasing for investment; and

5 (b) no commission or other remuneration is paid or  
6 given directly or indirectly for soliciting any prospective  
7 buyer; provided, however, that a commission may be paid to a  
8 registered broker-dealer if the securities involved are  
9 registered with the United States securities and exchange  
10 commission under the Federal Securities and Exchange Act of  
11 1933, as amended;

12 (9) any offer or sale of a preorganization certificate  
13 or subscription if:

14 (a) no commission or other remuneration is paid or  
15 given directly or indirectly for soliciting any prospective  
16 subscriber;

17 (b) the number of subscribers does not exceed 10; and

18 (c) no payment is made by any subscriber;

19 (10) any transaction pursuant to an offer to existing  
20 security holders of the issuer, including persons who at the  
21 time of the transaction are holders of convertible  
22 securities, nontransferable warrants, or transferable  
23 warrants exercisable within not more than 90 days of their  
24 issuance, if:

25 (a) no commission or other remuneration (other than a

1 standby commission) is paid or given directly or indirectly  
2 for soliciting any security holder in this state; or

3 (b) the issuer first files a notice specifying the  
4 terms of the offer and the commissioner does not by order  
5 disallow either (a) or (b) of this subsection;

6 (11) any offer (but not a sale) of a security for which  
7 registration statements have been filed under both parts 1  
8 through 3 of this chapter and the Securities Act of 1933 if  
9 no stop order or refusal order is in effect and no public  
10 proceeding or examination looking toward such an order is  
11 pending under either law;

12 (12) any offer (but not a sale) of a security for which  
13 a registration statement has been filed under parts 1  
14 through 3 of this chapter and the commissioner, in his  
15 discretion, does not disallow the offer in writing within 10  
16 days of such filing;

17 (13) the issuance of any stock dividend, whether the  
18 corporation distributing the dividend is the issuer of the  
19 stock or not, if nothing of value is given by stockholders  
20 for the distribution other than the surrender of a right to  
21 a cash dividend where the stockholder can elect to take a  
22 dividend in cash or stock;

23 (14) any transaction incident to a right of conversion  
24 or a statutory or judicially approved reclassification,  
25 recapitalization, reorganization, quasi-reorganization,

1 stock split, reverse stock split, merger, consolidation, or  
2 sale of assets."

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