

HOUSE BILL NO. 245

INTRODUCED BY ADDY, J. JENSEN, BERGENE

IN THE HOUSE

January 14, 1983	Introduced and referred to Committee on Judiciary.
January 18, 1983	Committee recommend bill do pass as amended. Report adopted.
	Bill printed and placed on members' desks.
January 20, 1983	Second reading, pass consideration.
January 21, 1983	Second reading, do pass.
January 22, 1983	Considered correctly engrossed.
January 24, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 25, 1983	Introduced and referred to Committee on Judiciary.
February 8, 1983	Committee recommend bill be not concurred in. Report adopted. Ayes, 48; Noes, 0.

IN THE HOUSE

February 8, 1983	Returned to House.
February 10, 1983	On motion, request of Senate granted for return of H. B. No. 245 for further consideration.

IN THE SENATE

February 10, 1983	Rereferred to Committee on Judiciary.
March 11, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 14, 1983	Second reading, concurred in.
March 16, 1983	Third reading, concurred in. Ayes, 46; Noes, 1.

IN THE HOUSE

March 16, 1983	Returned to House with amendments.
March 30, 1983	Second reading, amendments concurred in.
March 31, 1983	Third reading, amendments concurred in. Sent to enrolling. Reported correctly enrolled.

1 *House* BILL NO. *245*
 2 INTRODUCED BY *Anthony J. Swann, Eugene*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXPAND THE
 5 GEOGRAPHICAL AREA THAT MAY BE COVERED BY CONTRACTS NOT TO
 6 COMPETE AND TO PROVIDE THAT SUCH CONTRACTS MAY NOT COVER
 7 LICENSED PROFESSIONS AND OCCUPATIONS; AMENDING SECTIONS
 8 28-2-704 AND 28-2-705, MCA."

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

11 Section 1. Section 28-2-704, MCA, is amended to read:

12 "28-2-704. Exception — sale of goodwill of business.

13 One who sells the goodwill of a ~~profession, trade, or~~
 14 business may agree with the buyer to refrain from carrying
 15 on a similar ~~profession, trade, or~~ business within a
 16 specified ~~county, city, or part~~ any state or territory of
 17 the United States or the District of Columbia or any part or
 18 parts thereof so long as the buyer or any person deriving
 19 title to the goodwill from him carries on a like ~~profession,~~
 20 ~~trade, or~~ business therein. ~~However, such an agreement may~~
 21 ~~not be made when the seller is selling the goodwill of a~~
 22 ~~profession or occupation for which a license is required~~
 23 ~~under Title 37."~~

24 Section 2. Section 28-2-705, MCA, is amended to read:

25 "28-2-705. Exception — dissolution of partnership.

1 Partners may, upon or in anticipation of a dissolution of
 2 the partnership, agree that none of them will carry on a
 3 similar ~~profession, trade, or~~ business within the same city
 4 or town where the partnership business has been transacted
 5 or within a specified part thereof ~~any state or territory of~~
 6 ~~the United States or the District of Columbia or any part or~~
 7 ~~parts thereof. However, such an agreement may not be made~~
 8 ~~as to a profession or occupation for which a license is~~
 9 ~~required under Title 37."~~

-End-

Approved by Committee
on Judiciary

HOUSE BILL NO. 245

INTRODUCED BY ADDY, J. JENSEN, BERGENE

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXPAND THE GEOGRAPHICAL AREA THAT MAY BE COVERED BY CONTRACTS NOT TO COMPETE AND TO PROVIDE THAT SUCH ~~CONTRACTS MAY NOT COVER LICENSED PROFESSIONS AND OCCUPATIONS~~ WHEN SUCH CONTRACTS CONCERN PARTNERSHIPS THEY MAY ONLY BE MADE UPON DISSOLUTION OF PARTNERSHIP; AMENDING SECTIONS 28-2-704 AND 28-2-705, MCA."

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

Section 1. Section 28-2-704, MCA, is amended to read:

"28-2-704. Exception -- sale of goodwill of business.

One who sells the goodwill of a ~~profession, trade, or~~ business may agree with the buyer to refrain from carrying on a similar ~~profession, trade, or~~ business within a specified ~~county, city, or port~~ ~~any state or territory of the United States or the District of Columbia or any part or parts~~ THE STATE OF MONTANA OR ANY PART thereof so long as the buyer or any person deriving title to the goodwill from him carries on a like ~~profession, trade, or~~ business therein. ~~However, such an agreement may not be made when the seller is selling the goodwill of a profession or occupation for which a license is required under Title 37.~~"

Section 2. Section 28-2-705, MCA, is amended to read:

"28-2-705. Exception -- dissolution of partnership.

Partners may, upon ~~or in anticipation of~~ a dissolution of the partnership, agree that none ~~ONE OR MORE~~ of them will ~~MAY NOT~~ carry on a similar ~~profession, trade, or~~ business within the same ~~city or town where the partnership business has been transacted or within a specified part thereof~~ ~~any state or territory of the United States or the District of Columbia or any part or parts thereof. However, such an agreement may not be made as to a profession or occupation for which a license is required under Title 37~~ THE STATE OF MONTANA OR ANY PART THEREOF."

-End-

HOUSE BILL NO. 245

INTRODUCED BY ADDY, J. JENSEN, BERGENE

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXPAND THE GEOGRAPHICAL AREA THAT MAY BE COVERED BY CONTRACTS NOT TO COMPETE AND TO PROVIDE THAT SUCH ~~CONTRACTS MAY NOT COVER LICENSED PROFESSIONS AND OCCUPATIONS WHEN SUCH CONTRACTS CONCERN PARTNERSHIPS THEY MAY ONLY BE MADE UPON DISSOLUTION OF PARTNERSHIP~~; AMENDING SECTIONS 28-2-704 AND 28-2-705, MCA."

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

Section 1. Section 28-2-704, MCA, is amended to read:

"28-2-704. Exception -- sale of goodwill of business.

One who sells the goodwill of a ~~profession, trade, or~~ business may agree with the buyer to refrain from carrying on a similar ~~profession, trade, or~~ business within a ~~specified county, city, or part any state or territory of the United States or the District of Columbia or any part or parts~~ THE STATE OF MONTANA OR ANY PART thereof so long as the buyer or any person deriving title to the goodwill from him carries on a like ~~profession, trade, or~~ business therein. ~~However, such an agreement may not be made when the seller is selling the goodwill of a profession or occupation for which a license is required under Title 37.~~"

Section 2. Section 28-2-705, MCA, is amended to read:

"28-2-705. Exception -- dissolution of partnership.

Partners may, upon ~~or in anticipation of~~ a dissolution of the partnership, agree that none ONE OR MORE of them ~~will~~ MAY NOT carry on a similar ~~profession, trade, or~~ business within ~~the same city or town where the partnership business has been transacted or within a specified part thereof any state or territory of the United States or the District of Columbia or any part or parts thereof. However, such an agreement may not be made as to a profession or occupation for which a license is required under Title 37~~ THE STATE OF MONTANA OR ANY PART THEREOF."

-End-

THIRD READING

March 11, 1983

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 245 be amended as follows:

1. Page 1, line 14.

Following: "business."

Insert: "(1)"

2. Page 1, line 20.

Strike: "THE STATE OF MONTANA OR ANY PART thereof"

Insert: "the areas provided in subsection (2)"

3. Page 1, line 25.

Following: "z"

Insert: "(2) The agreement authorized in subsection (1) may
apply in:

(a) the city where the principal office of the business is
located;

(b) the county where the principal office of the business
is located;

(c) a city in any county adjacent to the county in which the
principal office of the business is located;

(d) Any county adjacent to the county in which the principal
office of the business is located; or

(e) any combination of the foregoing."

4. Page 2, lines 11 and 12.

Strike: "THE STATE OF MONTANA OR ANY PART THERE OF"

Insert: "the areas provided in 28-2-704(2)"

HOUSE BILL NO. 245

INTRODUCED BY ADDY, J. JENSEN, BERGENE

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXPAND THE GEOGRAPHICAL AREA THAT MAY BE COVERED BY CONTRACTS NOT TO COMPETE AND TO PROVIDE THAT SUCH--CONTRACTS--MAY--NOT--COVER LICENSED--PROFESSIONS--AND--OCCUPATIONS WHEN SUCH CONTRACTS CONCERN PARTNERSHIPS THEY MAY ONLY BE MADE UPON DISSOLUTION OF PARTNERSHIP; AMENDING SECTIONS 28-2-704 AND 28-2-705, MCA."

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

Section 1. Section 28-2-704, MCA, is amended to read:

"28-2-704. Exception -- sale of goodwill of business.

(1) One who sells the goodwill of a ~~profession--trade--or~~ business may agree with the buyer to refrain from carrying on a similar ~~profession--trade--or~~ business within a specified county, city, or part ~~any state or territory of the United States or the District of Columbia or any part of~~ parts THE STATE--OF--MONTANA--OR--ANY--PART thereof AREAS PROVIDED IN SUBSECTION (2) so long as the buyer or any person deriving title to the goodwill from him carries on a like ~~profession--trade--or~~ business therein. ~~However, such an agreement may not be made when the seller is selling the goodwill of a profession or occupation for which a license~~

~~is required under title 37.~~

(2) THE AGREEMENT AUTHORIZED IN SUBSECTION (1) MAY APPLY IN:

(A) THE CITY WHERE THE PRINCIPAL OFFICE OF THE BUSINESS IS LOCATED;

(B) THE COUNTY WHERE THE PRINCIPAL OFFICE OF THE BUSINESS IS LOCATED;

(C) A CITY IN ANY COUNTY ADJACENT TO THE COUNTY IN WHICH THE PRINCIPAL OFFICE OF THE BUSINESS IS LOCATED;

(D) ANY COUNTY ADJACENT TO THE COUNTY IN WHICH THE PRINCIPAL OFFICE OF THE BUSINESS IS LOCATED; OR

(E) ANY COMBINATION OF THE FOREGOING."

Section 2. Section 28-2-705, MCA, is amended to read:

"28-2-705. Exception -- dissolution of partnership. Partners may, upon ~~or in anticipation of a~~ dissolution of the partnership, agree that none ONE OR MORE of them will MAY NOT carry on a similar ~~profession--trade--or~~ business within the same city or town where the partnership business has been transacted or within a specified part thereof ~~any state or territory of the United States or the District of Columbia or any part of~~ parts thereof. ~~However, such an agreement may not be made as to a profession or occupation for which a license is required under title 37 THE STATE OF MONTANA OR ANY PART THEREOF AREAS PROVIDED IN 28-2-704(2)."~~

-End-