

HOUSE BILL NO. 286

INTRODUCED BY KITSELMAN, QUILICI, C. SMITH, ELLISON, ASAY,
ABRAMS, MANUEL, D. BROWN, HART, POFF, GILBERT, GAGE, THAYER,
SANDS, SCHULTZ, TVEIT, HIRSCH, B. WILLIAMS, SHAW

IN THE HOUSE

January 19, 1985	Introduced and referred to Committee on Judiciary.
January 24, 1985	Committee recommend bill do pass as amended. Report adopted.
January 25, 1985	Bill printed and placed on members' desks.
January 26, 1985	Second reading, do pass.
January 28, 1985	Considered correctly engrossed.
January 29, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 30, 1985	Introduced and referred to Committee on Judiciary.
March 16, 1985	Committee recommend bill be concurrent in as amended. Report adopted.
March 21, 1985	Second reading, concurred in.
March 23, 1985	Third reading, concurred in. Ayes, 48; Noes, 1. Returned to House with amendments.

IN THE HOUSE

March 25, 1985	Received from Senate.
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April 4, 1985	Second reading, pass consideration.
April 5, 1985	On motion, consideration passed for the day.
April 8, 1985	On motion, consideration passed for the day.
April 9, 1985	Second reading, amendments not concurred in. On motion, Conference Committee requested.
April 10, 1985	Conference Committee appointed.
April 17, 1985	Conference Committee dissolved. On motion, Free Conference Committee requested and appointed. Free Conference Committee reported.
April 18, 1985	Second reading, Free Conference Committee report adopted. Third reading, Free Conference Committee report adopted. Free Conference Committee report adopted by Senate.
April 19, 1985	Sent to enrolling. Reported correctly enrolled.

1 *House* HOUSE BILL NO. 286
 2 INTRODUCED BY Kitselmann Luttrell Smith
 3 Heisch Wright Reynolds Dove Brown
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR SPECIAL
 5 CIVIL ACTION BY UTILITIES AGAINST CUSTOMERS WHO BYPASS OR
 6 TAMPER WITH UTILITY METERS."
 7 *Gilbert*

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

9 Section 1. Purpose -- remedies cumulative. It is the
10 purpose of [this act] to impose a substantial civil penalty
11 upon those persons who, at the cost of their fellow
12 citizens, obtain utility services at less than their true
13 value through bypassing or tampering as defined in [section
14 2]. [This act] does not supersede or replace other remedies
15 provided for in law or equity.

16 Section 2. Definitions. As used in [this act], unless
17 the context otherwise requires, the following definitions
18 apply:

19 (1) "Bypassing" means any act, using any means, the
20 purpose of which is to obtain utility service without having
21 such service pass through the authorized meter provided for
22 measuring or registering such service.

23 (2) "Person" means an individual, firm, partnership,
24 corporation, unincorporated association, or other legal or
25 business entity or the executor, administrator, trustee,

1 receiver, assignee, or personal representative thereof.

2 (3) "Tampering" means damaging, altering, adjusting,
3 or in any manner interfering with or obstructing the
4 operation or function of any authorized metering device
5 provided for measuring or registering utility service.

6 (4) "Utility" means any public utility, municipally
7 owned utility, or cooperative utility that provides
8 electricity, gas, water, sewage disposal, or combination
9 thereof, for sale to consumers.

10 (5) "Utility service" means the provision of
11 electricity, gas, water, or sewer service.

12 Section 3. Liability for bypass or tampering. (1) A
13 person who bypasses or tampers, either for his own benefit
14 or the benefit of another, is liable to the affected utility
15 as provided in [section 4] for services actually provided by
16 the utility.

17 (2) A person who receives utility services, knowing
18 that the measurement of such services is being affected by
19 bypassing or tampering, is liable to the affected utility as
20 provided in [section 4] for services actually provided by
21 the utility.

22 Section 4. Action for recovery of reasonable value --
23 penalty. A utility may institute a civil action against a
24 person described in [section 3] to recover the reasonable
25 value of the services actually provided to the person. Upon

1 a finding that such person is liable to the utility, the
2 court shall enter judgment against the person for three
3 times the reasonable value of the utility's services
4 actually provided and shall award to the utility its costs,
5 including reasonable attorney fees, incurred in maintaining
6 the action and the costs, including expert witness fees, of
7 presenting such expert testimony as is reasonably necessary
8 to prove the utility's case.

9 Section 5. Presumption of bypass or tampering. It is
10 presumed that each person who was a resident or occupant of
11 premises at which bypassing or tampering occurred during his
12 residency or occupancy, or who benefited from such bypassing
13 or tampering, had knowledge that the measurement of the
14 utility's services being provided was affected by bypassing
15 or tampering.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 286

INTRODUCED BY KITSelman, QUILICI, C. SMITH,
ELLISON, ASAY, ABRAMS, MANUEL, D. BROWN, HART,
POFF, GILBERT, GAGE, THAYER, SANDS, SCHULTZ,
TVEIT, HIRSCH, B. WILLIAMS, SHAW

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14 presumed that each person who was a resident or occupant of
15 premises at which bypassing or tampering occurred during his
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14 presumed that each person who was a resident or occupant of
15 premises at which bypassing or tampering occurred during his
16 residency or occupancy, or who benefited from such bypassing
17 or tampering, had knowledge that the measurement of the
18 utility's services being provided was affected by bypassing
19 or tampering.

-End-

STANDING COMMITTEE REPORT

SENATE

March 15 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 286

third reading copy (blue)
color

(Senator Crippen)

PROVIDING CIVIL PENALTY FOR BYPASSING OR TAMPERING WITH UTILITY METER

Respectfully report as follows: That HOUSE BILL No. 286

be amended as follows:

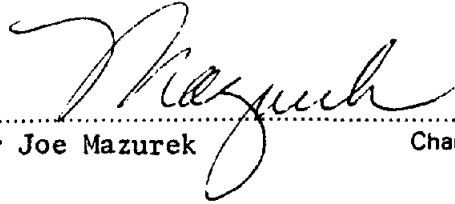
1. Page 2, line 20.
Following: "utility."
Insert: "Collection under subsection (2) precludes collection under this subsection."
2. Page 2, line 25.
Following: "utility."
Insert: "Collection under subsection (1) precludes collection under this subsection."
3. Page 3, line 6.
Following: "court"
Strike: "shall"
Insert: "may"
Following: "for"
Insert: "up to"
4. Page 3, line 8.
Following: "provided"
Insert: "and may award to the utility its costs, including reasonable attorney fees, incurred in maintaining the action and the costs, including expert witness fees, of presenting such expert testimony as is reasonably necessary to prove the utility's case"

AND AS AMENDED

BE CONCURRED IN

~~DO NOT PASS~~

~~DO NOT PASS~~


.....
Senator Joe Mazurek

Chairman.

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 2 corporation, unincorporated association, or other legal or
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 20 COLLECTION UNDER THIS SUBSECTION.

21 (2) A person who receives utility services, knowing
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14 COSTS, INCLUDING REASONABLE ATTORNEY FEES, INCURRED IN
15 MAINTAINING THE ACTION AND THE COSTS, INCLUDING EXPERT
16 WITNESS FEES, OF PRESENTING SUCH EXPERT TESTIMONY AS IS
17 REASONABLY NECESSARY TO PROVE THE UTILITY'S CASE.

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-End-

CONFERENCE COMMITTEE REPORT

Report No. 1.....

.....April 16, 1985.....

MR. SPEAKER

We, your FREE Conference Committee on
HOUSE BILL 286, reference copy - salmon

met and considered _____
Judiciary report of March 15, 1985

We recommend as follows:

1. Page 3, line 13.
Strike: "UTILITY"
Insert: "prevailing party"
2. Page 3, line 15.
Strike: "MAINTAINING"
3. Page 3, line 17.
Strike: "TO PROVE THE UTILITY'S CASE"

And that this Conference Committee report be adopted.

FOR THE SENATE

Ray Lybeck
Lybeck, Chm.

Boylan
Boylan

Tveit
Tveit

ADOPT REJECT

FOR THE HOUSE

Mike Kadas
Kadas, Chm.

Kitzelman
Kitzelman

Krueger
Krueger

JA A. Mercer
Mercer

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