

SENATE BILL NO. 17

INTRODUCED BY GOODOVER

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

January 7, 1985	Introduced and referred to Committee on Labor and Employment Relations.
January 10, 1985	Committee recommend bill do pass. Report adopted.
January 11, 1985	Bill printed and placed on members' desks.
January 12, 1985	Second reading, do pass.
January 14, 1985	On motion taken from engrossing and placed on second reading for the purpose of amending. Motion adopted.
	Second reading, do pass as amended.
January 15, 1985	Correctly engrossed.
January 16, 1985	Third reading, passed. Ayes, 48; Noes, 0.
	Transmitted to House.

IN THE HOUSE

January 18, 1985	Introduced and referred to Committee on Business and Labor.
March 8, 1985	Committee recommend bill be concurred in. Report adopted.
March 9, 1985	Second reading, concurred in.

March 12, 1985

Third reading, concurred in.

Returned to Senate.

IN THE SENATE

March 13, 1985

Received from House.

Sent to enrolling.

Reported correctly enrolled.

1 SENATE BILL NO. 17

2 AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO
3 BUSINESS AND LABOR; AMENDING SECTIONS 30-9-410, 30-14-221,
4 30-15-104, 33-19-405, 33-19-406, AND 39-71-406, MCA.

5 Section 1. 30-9-410. This amendment removes a
6 reference to 30-9-408 which was repealed by section 85, Ch.
7 402, L. 1983.

8 Section 2. 30-14-221. This amendment substitutes
9 "department" for "commissioner" in two places in subsection
10 (3) and makes grammatical changes to reflect the change. The
11 language regarding the commissioner was added by the House
12 Judiciary Committee by Ch. 577, L. 1983. A corresponding
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14 by the Securities Commissioner. This section relating to
15 unfair trade practices is administered by the Department of
16 Commerce.

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19 trade zone. The taxation of business inventory was repealed
20 by Ch. 613, L. 1981.

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22 to and penalties for violation of a cease and desist order
23 issued by the Insurance Commissioner. Chapter 580, L. 1981,
24 which enacted Title 33, ch. 19, originally contained cease
25 and desist provisions in section 19 which was codified as
26 33-19-404. The cease and desist provisions were amended out
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 30-9-410, MCA, is amended to read:
12 "30-9-410. Continued applicability of laws to
13 transmitting utilities. Unless displaced by the specific
14 provisions of ~~30-9-408 through 30-9-410~~ 30-9-409, this code
15 and other applicable laws remain in full force and effect
16 and supplement the provisions of ~~30-9-408 through 30-9-410~~
17 30-9-409."
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18 Section 2. Section 30-14-221, MCA, is amended to read:
19 "30-14-221. Investigations. (1) The department, for
20 the purpose of conducting hearings and investigations which
21 in the opinion of the department are necessary and proper
22 for the exercise of the powers vested in it by this part,
23 shall at all reasonable times have access to any evidence
24 concerning a person being investigated or proceeded against
25 that relates to any matter under investigation or in

1 question and the right to copy such evidence. The department
2 may issue subpoenas requiring the attendance and testimony
3 of witnesses and the production of any evidence that relates
4 to any matter under investigation or in question before the
5 department or before its duly authorized agent conducting
6 the investigation. An agent, duly authorized by the
7 department for those purposes, may administer oaths and
8 affirmations, examine witnesses, and receive evidence. The
9 attendance of witnesses and the production of evidence may
10 be required from any place in this state at any designated
11 place of hearing.

12 (2) Upon application by the department in a case of
13 contumacy or refusal to obey a subpoena issued to a person,
14 a district court of this state, within the district where
15 the inquiry is carried on or where a person guilty of
16 contumacy or refusal to obey is found, resides, or transacts
17 business, has jurisdiction to issue to that person an order
18 requiring him to appear before the department or its duly
19 authorized agent and to produce evidence if so ordered or to
20 give testimony regarding the matter under investigation.
21 Failure to obey the order of the court may be punished by
22 the court as a contempt.

23 (3) A person may not be excused from attending and
24 testifying or from producing books, records, correspondence,
25 documents, or other evidence in obedience to the subpoena of



1 the department on the ground that the testimony or evidence
 2 required of him may tend to incriminate him or subject him
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 4 evidence or any information directly or indirectly derived
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 6 witness in any criminal prosecution. Nothing in this section
 7 prohibits the commissioner department from granting immunity
 8 from prosecution for or on account of any transaction,
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 12 served thereby. Immunity may not extend to prosecution or
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 14 subpoena."

15 Section 3. Section 30-15-104, MCA, is amended to read:

16 "30-15-104. Taxation of corporations operating
 17 foreign-trade zones and their goods. ~~{1} All goods held in a~~
 18 ~~foreign-trade-zone-are-subject-to-inventory-taxation.~~

19 {2} Private or public corporations operating
 20 foreign-trade zones are subject to all taxes imposed upon
 21 them under the provisions of Title 15."

22 Section 4. Section 33-19-405, MCA, is amended to read:

23 "33-19-405. Civil penalties. ~~{1}~~ If a hearing pursuant
 24 to 33-19-402 results in the finding of a knowing violation
 25 of this chapter, the commissioner may, ~~in-addition-to-the~~

1 ~~issuance-of-a-cease-and-desist-order-as-prescribed-in~~
 2 ~~33-19-404,~~ order payment of a civil penalty of not more than
 3 \$500 for each violation but not to exceed \$10,000 in the
 4 aggregate for multiple violations.

5 ~~{2} Any person who violates a cease-and-desist order~~
 6 ~~of the commissioner under 33-19-404 may, after notice and~~
 7 ~~hearing and upon order of the commissioner, be subject to~~
 8 ~~one or more of the following penalties, at the discretion of~~
 9 ~~the commissioner:~~

10 ~~{a} a civil penalty of not more than \$10,000 for each~~
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 13 ~~commissioner finds that violations have occurred with such~~
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15 ~~{c} suspension or revocation of an insurance~~
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18 "33-19-406. Judicial review of orders and reports. Any
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 21 chapter were allegedly violated may obtain a review of any
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 23 33-1-711."

24 Section 6. Section 39-71-406, MCA, is amended to read:

25 "39-71-406. Deduction from wages of any part of

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2 prohibited. It is unlawful for the employer to deduct or
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4 chapter from the wages or earnings of his workers, and the
5 making or attempt to make any such deduction is a
6 misdemeanor~~7--except--that--nothing--in--this--section--shall--be~~
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APPROVED BY COMMITTEE
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SECOND READING

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 10 be required from any place in this state at any designated
 11 place of hearing.

12 (2) Upon application by the department in a case of
 13 contumacy or refusal to obey a subpoena issued to a person,
 14 a district court of this state, within the district where
 15 the inquiry is carried on or where a person guilty of
 16 contumacy or refusal to obey is found, resides, or transacts
 17 business, has jurisdiction to issue to that person an order
 18 requiring him to appear before the department or its duly
 19 authorized agent and to produce evidence if so ordered or to
 20 give testimony regarding the matter under investigation.
 21 Failure to obey the order of the court may be punished by
 22 the court as a contempt.

23 (3) A person may not be excused from attending and
 24 testifying or from producing books, records, correspondence,
 25 documents, or other evidence in obedience to the subpoena of

1 the department on the ground that the testimony or evidence
 2 required of him may tend to incriminate him or subject him
 3 to a penalty or forfeiture; but no compelled testimony or
 4 evidence or any information directly or indirectly derived
 5 from such testimony or evidence may be used against the
 6 witness in any criminal prosecution. Nothing in this section
 7 prohibits the commissioner department from granting immunity
 8 from prosecution for or on account of any transaction,
 9 matter, or thing concerning which a witness is compelled to
 10 testify if the commissioner department determines, in his
 11 its sole discretion, that the ends of justice would be
 12 served thereby. Immunity may not extend to prosecution or
 13 punishment for false statements given pursuant to the
 14 subpoena."

15 Section 3. Section 30-15-104, MCA, is amended to read:
 16 "30-15-104. Taxation of corporations operating
 17 foreign-trade zones and their goods. ~~(1) All goods held in a~~
 18 ~~foreign-trade-zone-are-subject-to-inventory-taxation.~~

19 ~~(2) Private or public corporations operating~~
 20 ~~foreign-trade zones are subject to all taxes imposed upon~~
 21 ~~them under the provisions of Title 15."~~

22 Section 4. Section 33-19-405, MCA, is amended to read:
 23 "33-19-405. Civil penalties. ~~(1) If a hearing pursuant~~
 24 ~~to 33-19-402 results in the finding of a knowing violation~~
 25 ~~of this chapter, the commissioner may, in addition to the~~

1 ~~issuance of a cease and desist order as prescribed in~~
 2 ~~33-19-404, order payment of a civil penalty of not more than~~
 3 ~~\$500 for each violation but not to exceed \$10,000 in the~~
 4 ~~aggregate for multiple violations.~~

5 ~~(2) Any person who violates a cease and desist order~~
 6 ~~of the commissioner under 33-19-404 may, after notice and~~
 7 ~~hearing and upon order of the commissioner, be subject to~~
 8 ~~one or more of the following penalties, at the discretion of~~
 9 ~~the commissioner:~~

10 ~~(a) a civil penalty of not more than \$10,000 for each~~
 11 ~~violation, or~~

12 ~~(b) a civil penalty of not more than \$50,000 if the~~
 13 ~~commissioner finds that violations have occurred with such~~
 14 ~~frequency as to constitute a general business practice, and~~

15 ~~(c) suspension or revocation of an insurance~~
 16 ~~institution's or agent's license."~~

17 Section 5. Section 33-19-406, MCA, is amended to read:
 18 "33-19-406. Judicial review of orders and reports. Any
 19 person subject to an order of the commissioner under
 20 ~~33-19-404 or 33-1-706 OR~~ 33-19-405 or any person whose
 21 rights under this chapter were allegedly violated may obtain
 22 a review of any order or report of the commissioner as
 23 provided by 33-1-711."

24 Section 6. Section 39-71-406, MCA, is amended to read:
 25 "39-71-406. Deduction from wages of any part of

1 premium a misdemeanor ~~----hospital--contributions--not~~
2 prohibited. It is unlawful for the employer to deduct or
3 obtain any part of any premium required to be paid by this
4 chapter from the wages or earnings of his workers, and the
5 making or attempt to make any such deduction is a
6 misdemeanor ~~7-except-that-nothing-in-this--section--shall--be~~
7 ~~construed--as--prohibiting--contributions--by-employees-to-a~~
8 ~~hospital-fund7-as-eisewhere-in-this-chapter-provided."~~

-End-