

SENATE BILL NO. 199

INTRODUCED BY WALKER, GILBERT, MCCORMICK,  
STRIZICH, HALLIGAN, SMITH, HARP

IN THE SENATE

JANUARY 20, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
JANUARY 27, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 28, 1989	PRINTING REPORT.
JANUARY 31, 1989	SECOND READING, DO PASS.
FEBRUARY 1, 1989	ENGROSSING REPORT.
FEBRUARY 2, 1989	THIRD READING, PASSED. AYES, 35; NOES, 13.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 20, 1989	FIRST READING.
MARCH 1, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1989	SECOND READING, CONCURRED IN.
MARCH 6, 1989	THIRD READING, CONCURRED IN. AYES, 86; NOES, 9.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 7, 1989	RECEIVED FROM HOUSE.
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SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1  
2 INTRODUCED BY *MA. J. Dalko* BILL NO. *199*  
3 *Smith* *Gilbert* *McConde*  
4 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING THE OFFICE OF  
5 THE SECURITIES COMMISSIONER A CRIMINAL JUSTICE AGENCY BY  
6 STATUTE; AMENDING SECTION 30-10-304, MCA; AND PROVIDING AN  
7 IMMEDIATE EFFECTIVE DATE."  
8

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

10 **Section 1.** Section 30-10-304, MCA, is amended to read:

11 **"30-10-304. Investigations and subpoenas.** (1) The  
12 commissioner in his discretion may:

13 (a) make such public or private investigations or  
14 examinations within or without this state as he deems  
15 necessary to determine whether any registration should be  
16 granted, denied, or revoked or whether any person has  
17 violated or is about to violate any provision of parts 1  
18 through 3 of this chapter or any rule or order hereunder or  
19 to aid in the enforcement of parts 1 through 3 of this  
20 chapter or in the prescribing of rules and forms hereunder;

21 (b) require or permit any person to file a statement  
22 in writing, under oath or otherwise as the commissioner may  
23 determine, as to all the facts and circumstances concerning  
24 the matter to be investigated; and

25 (c) publish information concerning any violation of

1 parts 1 through 3 of this chapter or any rule or order  
2 hereunder.

3 (2) (a) For the purpose of any investigation or  
4 proceeding under parts 1 through 3 of this chapter, the  
5 commissioner or any officer designated by him may administer  
6 oaths and affirmations, subpoena witnesses, compel their  
7 attendance, take evidence, and require the production of any  
8 books, papers, correspondence, memoranda, agreements, or  
9 other documents or records which the commissioner deems  
10 relevant or material to the inquiry.

11 (b) The commissioner may issue and apply to enforce  
12 subpoenas in this state at the request of a securities  
13 agency or administrator of another state if the activities  
14 constituting an alleged violation for which the information  
15 is sought would be a violation of the Securities Act of  
16 Montana if the activities had occurred in this state.

17 (3) In case of contumacy by or refusal to obey a  
18 subpoena issued to any person, any court of competent  
19 jurisdiction, upon application by the commissioner, may  
20 issue to that person an order requiring him to appear before  
21 the commissioner or the officer designated by him, there to  
22 produce documentary evidence if so ordered or to give  
23 evidence touching the matter under investigation or in  
24 question. Any failure to obey the order of the court may be  
25 punished by the court as a contempt of court.

1       (4) No person is excused from attending and testifying  
 2 or from producing any document or record before the  
 3 commissioner or in obedience to the subpoena of the  
 4 commissioner or any officer designated by him, or in any  
 5 proceeding instituted by the commissioner, on the ground  
 6 that the testimony or evidence (documentary or otherwise)  
 7 required of him may tend to incriminate him or subject him  
 8 to a penalty or forfeiture; but no compelled testimony or  
 9 evidence or any information directly or indirectly derived  
 10 from such testimony or evidence may be used against the  
 11 witness in any criminal case. Nothing in this section  
 12 prohibits the commissioner from granting immunity from  
 13 prosecution for or on account of any transaction, matter, or  
 14 thing concerning which a witness is compelled to testify if  
 15 the commissioner determines, in his sole discretion, that  
 16 the ends of justice would be served thereby. Immunity may  
 17 not extend to prosecution or punishment for false statements  
 18 given pursuant to the subpoena.

19       (5) The office of the securities commissioner is a  
 20 criminal justice agency as defined in 44-5-103."

21       NEW SECTION. Section 2. Extension of authority. Any  
 22 existing authority to make rules on the subject of the  
 23 provisions of [this act] is extended to the provisions of  
 24 [this act].

25       NEW SECTION. Section 3. Effective date. [This act] is

1       effective on passage and approval.

-End-

APPROVED BY COMM. ON  
BUSINESS & INDUSTRY

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2 INTRODUCED BY *MA. D. Dally* BILL NO. *199*  
3 *Smith* *HARP*

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