

SENATE BILL NO. 348

INTRODUCED BY NATHE

IN THE SENATE

FEBRUARY 4, 1989

INTRODUCED AND REFERRED TO COMMITTEE  
ON LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

FEBRUARY 15, 1989

COMMITTEE RECOMMEND BILL  
DO PASS. REPORT ADOPTED.

FEBRUARY 16, 1989

PRINTING REPORT.

FEBRUARY 17, 1989

SECOND READING, DO PASS.

ENGROSSING REPORT.

FEBRUARY 20, 1989

THIRD READING, PASSED.  
AYES, 30; NOES, 19.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 22, 1989

INTRODUCED AND REFERRED TO COMMITTEE  
ON LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

MARCH 15, 1989

COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

MARCH 27, 1989

SECOND READING, CONCURRED IN.

MARCH 29, 1989

THIRD READING, CONCURRED IN.  
AYES, 89; NOES, 8.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 3, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 5, 1989

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 348  
 2 INTRODUCED BY NATHAN

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXCLUDE MEMBERS OF  
 5 AN EMPLOYER'S IMMEDIATE FAMILY FROM COVERAGE UNDER THE  
 6 RESTAURANT, BAR, AND TAVERN WAGE PROTECTION ACT; AMENDING  
 7 SECTIONS 39-3-603 THROUGH 39-3-605, MCA; AND PROVIDING  
 8 EFFECTIVE DATES."

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

11 **Section 1.** Section 39-3-603, MCA, is amended to read:

12 "39-3-603. **Definitions.** For the purposes of this part,  
 13 the words and phrases used herein have the following  
 14 meaning:

15 (1) "Bar" or "tavern" means a house place where liquor  
 16 or beer is sold to be drunk on the premises.

17 (2) "Beer" means any beverage so defined in the  
 18 Montana Alcoholic Beverages Beverage Code.

19 (3) "Business" means a commercial enterprise of any  
 20 kind involving the buying and selling of goods.

21 (4) "Commissioner" means the commissioner of labor and  
 22 industry provided for in 2-15-1701.

23 (5) "Department" means the department of labor and  
 24 industry provided for in 2-15-1701.

25 (6) "Employee" means a person who works for wages or

1 salary in the service of an employer. The term does not  
 2 include a member of an employer's immediate family.

3 (7) "Immediate family" means the spouse, parents,  
 4 children, grandchildren, brothers, or sisters of a person  
 5 operating a business as a restaurant, bar, or tavern.

6 (7)(8) "Liquor" means ~~any beverage~~ so has the same  
 7 meaning as defined specified in the ~~Montana~~ Alcoholic  
 8 Beverages Code 16-1-106.

9 (8)(9) "Person" includes any establishment, firm,  
 10 partnership, corporation, person, or association of persons.

11 (9)(10) "Restaurant" means a public eating house place  
 12 where food is prepared and served for human consumption on  
 13 the premises."

14 **Section 2.** Section 39-3-604, MCA, is amended to read:

15 "39-3-604. **Bond to be filed -- bond requirements.** (1)  
 16 Every Except as provided in 39-3-605 and subsection (4) of  
 17 this section, a person operating a business as a restaurant,  
 18 bar, or tavern is hereby required to file a bond equal to at  
 19 least double the amount of the projected semimonthly payroll  
 20 with the commissioner. Said The bond shall at all times be  
 21 kept in full force and effect, and any cancellation or  
 22 revocation thereof of the bond or withdrawal of the sureties  
 23 therefrom from the bond is grounds for enjoining the  
 24 operation of business, as provided for in 39-3-607, until  
 25 ~~such time as~~ a new bond of like tenure and effect shall have

1 been is filed and approved as-herein-provided.

2 (2) The bond required by subsection (1) of this  
3 section ~~shall~~ must be filed with the commissioner. The  
4 state of Montana ~~shall~~ must be named as the obligee therein,  
5 with good and sufficient sureties to be approved by the  
6 attorney general.

7 (3) ~~Such~~ The bond ~~shall~~ must be conditioned to assure  
8 that the employees who perform labor or other personal  
9 services are guaranteed their wages in the event the person  
10 ceases operation of the business for any reason and is  
11 unable to pay the wages due and owing the employees and to  
12 assure payment due the department as a result of payroll  
13 taxes.

14 (4) Except as provided in 39-3-605(2), this section  
15 does not apply to any person who has operated the same  
16 restaurant, bar, or tavern continuously since October 1,  
17 1980."

18 **Section 3.** Section 39-3-605, MCA, is amended to read:

19 "39-3-605. Waiver of bond -- new or additional bond --  
20 exemption. (1) After 3 years of compliance with this part,  
21 the commissioner shall waive the provisions of 39-3-604 for  
22 any person showing compliance with the applicable provisions  
23 of the Fair Labor Standards Act and all the applicable laws  
24 administered by the department.

25 (2) Notwithstanding 39-3-604(4) and subsection (1) of

1 this section, the commissioner may require a person  
2 operating a restaurant, bar, or tavern, including a person  
3 who has been in business since October 1, 1980, or for over  
4 3 years, to file a new bond or a bond of a greater amount  
5 than double the semimonthly payroll whenever the person  
6 operating a restaurant, bar, or tavern defaults on the  
7 payment of wages, payroll taxes, or workers' compensation  
8 premiums.

9 (3) A person operating a restaurant, bar, or tavern is  
10 exempt from the provisions of 39-3-604 to the extent that  
11 39-3-604 would otherwise require filing of a bond based on  
12 the payroll and wages attributable to members of the  
13 immediate family of the person operating the restaurant,  
14 bar, or tavern."

15 **NEW SECTION. Section 4.** Extension of authority. Any  
16 existing authority to make rules on the subject of the  
17 provisions of [this act] is extended to the provisions of  
18 [this act].

19 **NEW SECTION. Section 5.** Effective dates. (1) [Section  
20 4 and this section] are effective on passage and approval.

21 (2) [Sections 1 through 3] are effective July 1, 1989.

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ON LABOR & EMPLOYMENT  
RELATIONS

1 *Spate* BILL NO. 348  
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14 meaning:

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16 or beer is sold to be drunk on the premises.

17 (2) "Beer" means any beverage so defined in the  
18 Montana Alcoholic Beverages Beverage Code.

19 (3) "Business" means a commercial enterprise of any  
20 kind involving the buying and selling of goods.

21 (4) "Commissioner" means the commissioner of labor and  
22 industry provided for in 2-15-1701.

23 (5) "Department" means the department of labor and  
24 industry provided for in 2-15-1701.

25 (6) "Employee" means a person who works for wages or

1 salary in the service of an employer. The term does not  
2 include a member of an employer's immediate family.

3 (7) "Immediate family" means the spouse, parents,  
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9 ~~(8)(9)~~ "Person" includes any establishment, firm,  
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11 ~~(9)(10)~~ "Restaurant" means a public eating house place  
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14 **Section 2.** Section 39-3-604, MCA, is amended to read:

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17 this section, a person operating a business as a restaurant,  
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19 least double the amount of the projected semimonthly payroll  
20 with the commissioner. Said The bond shall at all times be  
21 kept in full force and effect, and any cancellation or  
22 revocation thereof of the bond or withdrawal of the sureties  
23 therefrom from the bond is grounds for enjoining the  
24 operation of business, as provided for in 39-3-607, until  
25 such time as a new bond of like tenure and effect shall have

1 been is filed and approved ~~as-herein-provided~~.

2 (2) The bond required by subsection (1) of this  
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4 state of Montana ~~shall~~ must be named as the obligee therein,  
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9 services are guaranteed their wages in the event the person  
10 ceases operation of the business for any reason and is  
11 unable to pay the wages due and owing the employees and to  
12 assure payment due the department as a result of payroll  
13 taxes.

14 (4) Except as provided in 39-3-605(2), this section  
15 does not apply to any person who has operated the same  
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18 **Section 3.** Section 39-3-605, MCA, is amended to read:

19 "**39-3-605. Waiver of bond -- new or additional bond --**  
20 **exemption.** (1) After 3 years of compliance with this part,  
21 the commissioner shall waive the provisions of 39-3-604 for  
22 any person showing compliance with the applicable provisions  
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-End-




STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Labor and Employment Relations report that SENATE BILL 348 (third reading copy -- blue) be concurred in as amended .

Signed: \_\_\_\_\_



Angela Russell, Chairman

[REP. PAVLOVICH WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 4, line 9.  
Following: "person"  
Strike: "operating"  
Insert: "who owns and operates"

2. Page 4, line 13.  
Following: "person"  
Strike: "operating"  
Insert: "who owns and operates"

HOUSE

SB 348

## SENATE BILL NO. 348

INTRODUCED BY NATHE

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXCLUDE MEMBERS OF AN EMPLOYER'S IMMEDIATE FAMILY FROM COVERAGE UNDER THE RESTAURANT, BAR, AND TAVERN WAGE PROTECTION ACT; AMENDING SECTIONS 39-3-603 THROUGH 39-3-605, MCA; AND PROVIDING EFFECTIVE DATES."

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