

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on March 13, 2001 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Dennis Himmelberger (R)
Rep. Jim Keane (D)
Rep. Rick Laible (R)
Rep. Bob Lawson (R)
Rep. John Musgrove (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Donald Steinbeisser (R)
Rep. Brett Tramelli (D)
Rep. James Whitaker (R)

Members Excused: Rep. Carol C. Juneau (D)

Members Absent: None.

Staff Present: Gordon Higgins, Legislative Branch
Jane Nofsinger, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB253, SB151, SB305, 3/12/2001
Executive Action: SB274, SB357, SB392, SB221,
SB141, SB305, SB253

HEARING ON SB305

Sponsor: SEN. VICKI COCCHIARELLA, SD32, MISSOULA

Proponents: George Wood, Montana Self-Insurers Assn.
Sami Butler, Montana Nurses Assn.
Barry Stang, Montana Motor Carriers Assn.

Opponents: None

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA, SD32, MISSOULA, said this bill worked its way through the interim committee this summer. The act provides that an injured worker with physical restrictions who has not reached maximum healing can return to an alternative or modified employment. This employment can be with another employer if this type of employment is not available at the workplace where the employee was injured. The return must also be upon approval of a physician. She noted an example of a worker at a bacon factory in Missoula who had carpel tunnel syndrome. She said because the bacon factory did not have a position where the workers did not use their hands a lot, the injured worker was allowed to work at their child's day care center. She said the choice was between staying at home on 2/3 wage or getting back to doing something they felt good about at their full wage. She called this a good bill for all concerned.

Proponents' Testimony:

Mr. Wood said he strongly supported this bill with the amendments. He explained the employer can put the worker at light work and on a full wage. He said this gives the employee the opportunity to return some employees to light work. He noted this is contingent on the doctor's agreement and the work being available.

Ms. Butler called this a good bill and said the nurses understand the benefits of being able to return to work because that affects mental health.

Mr. Stang supported the bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. BOOKOUT-REINICKE asked the sponsor if there was a time limit or was that up to the doctor.

Sen. COCCHIARELLA said when the employee was able to return to light work, the doctor said so, and when they were able to return to regular work, the doctor said so.

Closing by Sponsor:

SEN. COCCHIARELLA noted that the MT AFL-CIO also supported this bill. She urged the committee to pass the bill for the sake of workers and employers in Montana.

{Tape : 1; Side : A; Approx. Time Counter : 11.3}

HEARING ON SB253

Sponsor: SEN. VICKI COCCHIARELLA, SD32, MISSOULA

Proponents: Christy Blazer, Montana Rental Dealers Assn.
Brad Dennison, Rent-A-Center Owner, Billings & Texas
Tony Longin, Rental store, Great Falls
Barbara Picolo, Picolo's Music
Jeff Mangan, HD45

Opponents: None

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA, SD32, MISSOULA, said this bill was brought by the rent-to-businesses who wanted to form guideline legislation for compliance and uniformity. She said it clarifies regulation and how these businesses deal with consumers. The act requires the disclosure of certain information for each rental-purchase agreement. It also prohibits certain provisions in rental-purchase agreements, provides that such an agreement may be reinstated, and requires written receipts for payment by cash or money orders. She called the bill a pro-consumer bill.

Proponents' Testimony:

Ms. Blazer said there are 8 small rent-to-own businesses around the state. She presented a chart which depicted various transactions regulated by law and a letter from a rent-to-own store owner. **EXHIBIT (buh57a01) EXHIBIT (buh57a02)** She said SB253 would be the missing piece of the puzzle in Montana. She noted that 45 other states have adopted legislation in this area.

Mr. Dennison testified he was an attorney from Texas who owned rental stores in Billings and Texas. He presented written testimony. **EXHIBIT (buh57a03)** He said it was a good piece of

legislation and noted this type of legislation had been around for 15 years, and that no state had repealed it since it had been adopted.

Mr. Longin said he supported the bill because it was fair to all.

Ms. Picolo said her business rents musical instruments to school children. Usually these children do not know if they would continue the rest of their life with an instrument or if it would be short-term. She explained that if it is returned for a month that breaks the contract, everything that has been paid for is lost, and the contract has to start again. The renter does not get ownership until the instrument is paid for. The bill gives 45 days to reinstate the agreement after 2/3 or more of the total payments necessary to acquire the property. She said the bill was good for everyone.

REP. MANGAN said he thought it was a good bill. The strong disclosure requirement equals consumer protection, he said. He said he thought it met small and large business needs, and the committee had heard from both today.

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Opponents' Testimony: None

Informational Witness:

Annie Bartos, Department of Commerce, said she was available for questions.

Questions from Committee Members and Responses:

REP. LAWSON asked **Mr. Longin** for an example of an item he might rent and how much that would cost a week. **Mr. Longin** said a rough estimate on a sofa might be \$25 a week, and it would take 104 weeks of renting it to own it.

REP. GALVIN-HALCRO asked **Mr. Dennison** asked how much interest the renters have to pay. **Mr. Dennison** said no annual interest rate is stated in the bill because there is no interest rate charged. He said there is no debt because the contract is terminable at any time. **REP. GALVIN-HALCRO** asked if these contracts can be used to establish credit, but it is up to the credit agency to decide if they will use it. He added they would provide the payment history.

REP. LAIBLE asked if the average rental was for four months. **Mr. Dennison** said yes. **REP. LAIBLE** asked if he rented a TV set and

took it back after 4 months if it was rented for the same rate since it was not new. **Mr. Dennison** said the weekly rate was the same but the term would shorten.

REP. PRICE asked how long before an item was owned. **Mr. Longin** said the term was 24 months in his store.

REP. GALLIK asked if there can be an early payment cash price. **Mr. Dennison** said yes there was an early rental option with a cash price which would be less than term.

Closing by Sponsor:

SEN. COCCHIARELLA said there is a difference between these transactions and others out there. She called these "walk-away" transactions. She said if the customers don't want to property anymore, they just say "come and get it." If they love it, she noted, they can keep it. She pointed out there is no hidden cost, it is all on paper, and the customers know that up front. She said this is a bill for these businesses and all of Montana. She said **REP. MANGAN** will carry the bill in the House.

{Tape : 2; Side : A; Approx. Time Counter : 0}

HEARING ON SB151

Sponsor: SEN. DALE MAHLUM, SD35, MISSOULA

Proponents: Riley Johnson, NFIB

**Opponents: Bob Green, Montana Tech Head Coach, Athletic Dir.
Chase Jeniker, Digger Athletic Assn.**

Opening Statement by Sponsor:

SEN. DALE MAHLUM, SD35, MISSOULA, said this bill prohibits universities from selling fitness services to the general public when a for-profit fitness center operates in a community. This act does not include swimming pools, golf courses or youth camps.

Proponents' Testimony:

Mr. Johnson said their basic philosophy is that non-profit fitness centers should not compete with private business. He said fitness centers invest a lot of money in equipment. He asked if

the universities wanted to save money, why did they build these big centers.

Opponents' Testimony:

Mr. Green said that Montana Tech has a fitness facility which offers membership for purchase to be used at specific hours. He said they had received \$160,000 from sale of these memberships which went to support their athletic program. He said it also creates two full-time jobs on their campus. He said there is no general fund money used to purchase equipment because it is all self-generating. He called it an example of community involvement and making use of available resources. He also noted it is a great interaction vehicle for young people. "Campus newspapers and radio stations sell advertising," he said. "The book store and carpenter shop sell a wide variety of items," he added. He added that the fitness facility contributed greatly to the quality of life in Butte. "An important part of an economic development system is a vibrant university system," he said. He urged the committee to oppose the bill.

Mr. Jeniker said people who spend their money at the university fitness center feel that their dollars spent there go to educate students and help them. He said they would lose \$50,000 or more if this bill passed. He told the committee he did not want to compete with private businesses.

Questions from Committee Members and Responses:

REP. LAIBLE asked if a health club could offer the \$40 month the university charged. **SEN. MAHLUM** said no, if the university wanted to compete, let them ask what private facilities charge.

REP. GALLIK asked if this bill wouldn't shut off the ability for anyone to put up a small sign which said "come work out." **SEN. MAHLUM** asked **REP. GALLIK** to be reasonable and questioned why anyone would want to put up a sign like that.

REP. BROWN said in the interim committee they had heard testimony from fitness centers. He asked where they were today, and if they were disgusted. **SEN. MAHLUM** said originally there were proponents from Hamilton, Missoula, Bozeman and Billings. He said as the bill progressed, Section 3 was taken out. He said he didn't know why they weren't there, maybe they didn't know about it. "I didn't invite them," he said.

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REP. KEANE asked **Mr. Green** if there was a problem in Butte with for-profit fitness centers. **Mr. Green** said for 15 years to his knowledge he had not been aware of any problem. **REP. KEANE** asked if he was familiar with Curves and its success. **Mr. Green** said yes he was aware of Curves and noted it mainly catered to women. He said Montana Tech uses water aerobics, works with men, women and teens. He added that he thought Curves offered good hours for women.

REP. HIMMELBERGER asked why the university pool and golf is not included. **SEN. MAHLUM** said the reason is because the university pool is used by many people, and is the only one available other than the Y. He said the golf course will be filled in in a few years with condos. He added that no one wants to take away the youth camps. **REP. HIMMELBERGER** said it sounded like this is just talking about Missoula. He questioned if there were any other problems in the state and how the people around MSU in Bozeman felt.

REP. KEANE said since it is not a problem in Butte, could they amend Montana Tech out. **SEN. MAHLUM** said, "I am the messenger, when I leave, it's yours."

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REP. FRITZ asked **SEN. MAHLUM** if the facilities in Butte and Missoula were different. **SEN. MAHLUM** said UM built a new health club and fitness center. She asked about the student-financed rock wall. He said it was paid out of an increase in the activity fee.

Closing by Sponsor:

SEN. MAHLUM said fitness centers cost a lot and entrepreneurs are investing for their life. He said this bill insures they do not have to compete with private fitness centers that are also taxpayers.

EXECUTIVE ACTION ON SB305

Motion: **REP. KEANE** moved that **SB305 BE CONCURRED IN.**

Discussion:

REP. BROWN asked if it was permissive, not mandatory for the employee.

REP. KEANE said the employee agrees to, but doesn't have to.

Vote: Motion **carried unanimously.**

REP. PRICE will carry the bill in the House.

EXECUTIVE ACTION ON SB392

Motion: REP. LAWSON moved that **SB392 BE CONCURRED IN.**

Discussion:

Motion: REP. GALLIK moved that **SB392 BE AMENDED.**

Discussion:

REP. GALLIK wanted to add "who was involved in the collision" to make sure the individual who was making the claim was the one actually involved in the accident.

Vote: Motion **carried 18-1 with Gallik voting no.**

Motion: REP. GALLIK moved that **SB392 BE AMENDED.**

Discussion:

REP. GALLIK said he wanted to add "or premium increase." He said it now addresses termination or non-renewal, and an increase could be tantamount to these.

REP. LAIBLE said he was opposed to this amendment. "If we tie the hands of the Insurance Commissioner, we are in essence, setting the rates for them," he said.

Vote: Motion **failed 6-13 with Fritz, Gallik, Galvin-Halcro, Juneau, Keane, and Tramelli voting aye.**

Motion: REP. BOOKOUT-REINICKE moved that **SB392 BE CONCURRED IN AS AMENDED.**

Discussion:

REP. LAIBLE said he was opposed to the bill because it was trying to manage the industry rather than let the free market system work.

REP. WHITAKER said he could not support the bill.

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Vote: Motion failed 6-13 with Fritz, Gallik, Galvin-Halcro, Juneau, Keane, and Musgrove voting aye.

Motion/Vote: REP. BOOKOUT-REINICKE moved that SB392 BE TABLED. Motion carried 13-6 with Fritz, Gallik, Galvin-Halcro, Juneau, Keane, and Musgrove voting no.

EXECUTIVE ACTION ON SB274

Motion: REP. BOOKOUT-REINICKE moved that SB274 BE CONCURRED IN.

Discussion:

Motion: REP. LAWSON moved that SB274 BE AMENDED.

Discussion:

Mr. Higgins said the amendment clarifies the frequency of requirements for information to once each calendar year. He said it also removes the 2-50 employee small groups from the requirement for information gathering.

Vote: Motion failed unanimously.

Motion/Vote: REP. LAWSON moved that SB274 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON SB253

Motion: REP. LAWSON moved that SB253 BE CONCURRED IN.

Discussion:

REP. BOOKOUT-REINICKE said she would like to take out "at consumer's request."

REP. GALVIN-HALCRO said the proponents said there was a provision for that and "we would keep an eye on it."

CHAIRMAN MCKENNEY said he was always shocked at individuals who wanted to be regulated. "Maybe they just don't understand," he said.

Vote: Motion **SB253** carried 16-3 with **Bitney, McKenney, and Steinbeisser** voting no.

EXECUTIVE ACTION ON SB357

Motion: REP. **MUSGROVE** moved that **SB357 BE CONCURRED IN.**

Discussion:

Motion: REP. **MUSGROVE** moved that **SB357 BE AMENDED.**

Discussion:

Mr. Higgins said testimony by fax was the source of this amendment which added two components. First of all, the purchaser must know the life expectancy of policy holders, and the purchaser must be encouraged to consult with an attorney or a financial planner not connected to the sale of the policy.

Ms. Clifford said there must be three estimates of life expectancy, and the buyer must be told about all of them, not just the lowest one.

Vote: Motion **carried unanimously.**

Motion: REP. **MUSGROVE** moved that **SB357 BE CONCURRED IN AS AMENDED.**

Discussion:

Motion: REP. **GALVIN-HALCRO** moved that **SB357 BE AMENDED.**

Discussion:

REP. GALVIN-HALCRO said the amendment states if there is a loan on the policy it would have to be disclosed.

Vote: Motion **carried unanimously.**

Motion/Vote: REP. **GALVIN-HALCRO** moved that **HB357 BE CONCURRED IN AS AMENDED. Motion carried unanimously.**

EXECUTIVE ACTION ON SB221

Motion: REP. LAWSON moved that SB221 BE CONCURRED IN.

Discussion:

Motion: REP. FRITZ moved that SB221 BE AMENDED.

Discussion:

Mr. Higgins said this amendment put back in the bill the CON requirement for Home Health Agencies.

REP. FRITZ said she did not hear any testimony against ASCs, but heard a lot of testimony about keeping CONs for Home Health Agencies.

REP. LAIBLE said the bill originally was to remove the need for everybody to have CONs, and if the committee amends it to exclude Home Health Agencies, it will eliminate competition. He said the consumer will pay less the more competition there is. He said, "This amendment protects existing business and this is not what we want to do," he said.

REP. MATTHEWS said he was voting against the amendment because nobody east of Billings has applied for a CON in years.

REP. KEANE said he disagreed with **REP. LAIBLE** because they had heard from Butte businesses that CONs protect consumers and businesses.

REP. BOOKOUT-REINICKE said she was voting no on the bill but she would vote for the amendment because in case the bill passed the amendment make the bill better.

REP. BROWN asked **REP. FRITZ's** reason for the amendment and asked if she thought hospitals would monopolize health care.

Rep. FRITZ said her concern was for rural areas. She said without this amendment she felt rural and urban areas would suffer.

REP. BROWN said he did not believe if they did away with CONs a lot of people would be jumping in.

REP. PRICE said competition does not improve medical business. He said costs are capped by Medicaid and Medicare. He said CONs need to be retained, otherwise he felt services would be lost in Glasgow and Lewistown.

Motion/Vote: **REP. FRITZ** moved **SB221**. Motion carried 14-5 with **Brown, Gallik, Laible, Matthews, and McKenney** voting no.

Motion: **REP. FRITZ** moved that **SB221 BE CONCURRED IN AS AMENDED**.

Discussion:

Motion/Vote: **REP. LAWSON** moved that **SB221 BE AMENDED**. Motion carried unanimously.

Motion/Vote: **REP. LAWSON** moved that **SB221 BE CONCURRED IN AS AMENDED**. Motion carried 11-8 with **Brown, Gallik, Laible, Matthews, and McKenney** voting no.

EXECUTIVE ACTION ON SB141

Motion: **REP. GALVIN-HALCRO** moved **SB141**.

Discussion:

Motion: **REP. GALVIN-HALCRO** moved that **SB141 BE AMENDED**.

Discussion:

Mr. Higgins said this amendment was brought by **SEN. STONINGTON** and **REP. BOOKOUT-REINICKE** added the issue of effective date. He said it allows individuals to copy materials in the file.

REP. BROWN said Amendment 7 doesn't give the governing authority time to inform employers of new law, and he said this was a problem for him.

REP. GALLIK moved a substitute amendment to strike Amendments 7 and 3.

Vote: Motion **SB141** carried 17-2 with **Brown and McKenney** voting no.

Motion: **REP. GALVIN-HALCRO** moved that **SB141 BE AMENDED.**

Discussion:

REP. LAWSON said as assistant principal his files had always been open to employees.

REP. KEANE reminded the committee that public records are public. He noted that private company records can also protect the employer.

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Vote: Motion carried 11-8 with **Bitney, Brown, Himmelberger, Laible, McKenney, Price, Steinbeisser, and Whitaker** voting no.

Motion: **REP. GALVIN-HALCRO** moved that **SB141 BE CONCURRED IN AS AMENDED.**

Discussion:

REP. BROWN noted that the Montana Contractor's Assn. and others were against this bill. He said he did not think it was a productive way to handle employer-employee relations.

REP. GALVIN-HALCRO said there were no opponents and only proponents. She said she maintained her own file at home.

REP. MATTHEWS said he was in favor of the bill.

REP. GALLIK said what happens when an employee asks and the employer says no is a lawsuit is brought and the court invariably says the employer has to show the employee the file. He said they would have more litigation if this bill was not passed. He said the lawsuits would be brought by those who could afford it and injustice would be on those who could not.

REP. LAIBLE said he thought the bill put restraint on Montana businesses.

REP. BOOKOUT-REINICKE noted that hospitals own x-rays but are required to give patients a copy of them.

REP. KEANE said that in most cases this was probably not a problem, but this would help when it was a problem.

REP. BITNEY said this bill was well-intended, but he felt it had unintended consequences. He thought it would force more negative written input. He said maybe warnings which had been verbal before would become written.

Vote: Motion **carried 13-6 with Bitney, Brown, Laible, McKenney, Steinbeisser, and Whitaker voting no.**

EXECUTIVE ACTION ON SB151

Motion: **REP. LAIBLE** moved that **SB151 BE CONCURRED IN.**

Discussion:

REP. KEANE said he had a conceptual amendment which would take Montana Tech out of this bill because it looked like a Missoula bill to him.

REP. BITNEY said so now it would look like a Butte bill.

REP. PRICE asked if a motion to table was in order.

CHAIRMAN MCKENNEY said the motion would be in order when he recognized it. He said maybe they had taken the bill out of the folder too soon.

REP. KEANE withdrew his amendment.

REP. LAIBLE withdrew his motion to concur.

CHAIRMAN MCKENNEY told the committee to put the folder back in their file, and action was postponed.

ADJOURNMENT

Adjournment: 11:30 A.M.

REP. JOE MCKENNEY, Chairman

JANE NOFSINGER, Secretary

JM/JN

EXHIBIT (buh57aad)