

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN DALE MAHLUM**, on February 6, 2003 at 9 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Sherm Anderson (R)
Sen. Vicki Cocchiarella (D)
Sen. Kelly Gebhardt (R)
Sen. Ken (Kim) Hansen (D)
Sen. Sam Kitzenberg (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)
Sen. Carolyn Squires (D)

Members Excused: Sen. Bob Keenan (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Sherrie HandeL, Committee Secretary
Eddy McClure, Legislative Branch

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

Committee Business Summary:

Hearing & Date Posted: SB 241, 1/21/2003; SB 268,
1/25/2003
Executive Action: SB228; SB 249

{Tape: 1; Side: A}

HEARING ON SB 241**Sponsor: SENATOR DEBBIE SHEA, SD 18, BUTTE****Proponents: Gordy Vance, MPPA; Steve Turkiewicz, Montana Auto Dealers Association, Mona Jamison, General Motors****Opponents: None****Opening Statement by Sponsor:**

SEN. DEBBIE SHEA, SD 18, BUTTE, brought to the committee SB 241. She prefaced her remarks by saying they are not writing new law with this legislation. They are attempting to include new and used highway vehicle dealers, new and used snowmobile dealers, and new and used water craft dealers with the same provisions in the law that provide protection for family members to succeed in the ownership or operation of the businesses mentioned. In her discussions with the Title and Registrations Bureau and the enforcement officers for the Department of Justice, they have been operating over the past four years as if the changes were already in place. This, then, is basically a housekeeping bill to get it in order. She distributed copies of the code that pertain to this bill, **EXHIBIT (bus26a01)**. **SEN. SHEA** distributed amendments to the bill, **EXHIBIT (bus26a02)** (SB024101.abc).

Proponents' Testimony:

Mona Jamison, General Motors, stood in support of the bill. The original draft of the bill, without the amendments, would have disrupted the house of dominoes that the auto dealers and manufacturers have in the code on their franchise agreements. Adding in a new definition for dealerships, which would allow contracts or agreements to be expressed or implied (oral) could have a significant effect on the written agreements and the historical relationship between auto manufacturers and dealers and the way they conduct business. This is done through a written agreement and a lot of negotiation. She believes that the amendments make it clear that, although the water craft and snowmobile manufacturers and dealers would like to take advantage of the existing statutes, the way to do that is the way this amendment is drafted. They believe by deleting the new definition of dealership and relying on the term, "new motor vehicle dealer," which is already defined in code and includes those particular dealers that **SEN. SHEA** is representing, her goal is accomplished. They will be able to use the succession statutes that apply now between the manufacturers and dealers and do it in such a way that it will not change nor disrupt the way that we normally do business.

Gordy Vance, MPPA, pointed out that his organization was here four years ago, and they got some large changes made in state law, which allowed dealers in his industry to be viewed like dealers in the automobile industry in their relationship with manufacturers. They are hoping this will not cause any problems, and he is present to answer any questions.

Steve Turkiewicz, Montana Auto Dealers Association, expressed his initial concern when SB 241 came out about disrupting a very delicate balance that has been crafted over the past 14 years. His organization has no objection that the snowmobile franchisees and others be brought into it; they just don't want to disrupt their delicate balance developed over the years. He stood in strong support of the amendments.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. MIKE SPRAGUE asked **Mr. Turkiewicz** about the effect of tax law regarding succession. **Mr. Turkiewicz** said he didn't think tax implications could be avoided.

Closing by Sponsor:

SEN. SHEA closed by saying that, as Martha Stewart says, "It's a good thing."

HEARING ON SB 268

Sponsor: SEN. DEBBIE SHEA, SD 18, BUTTE

Proponents: Carl Schweitzer, Associated Plumbing and Heating Contractors of Montana; Dr. Keith Foster; Steve Pallister, Pallister Plumbing

Opponents: Harold Blattie

Informational Witnesses: Jim Brown, Business Standards Division of the Department of Labor and Industry; Bill Jellison, Building Code Bureau Chief, Department of Labor and Industry

Opening Statement by Sponsor:

SEN. DEBBIE SHEA, SD 18, BUTTE, stated this bill is the product of a special task force that was created as the result of a 1996-

97 legislative audit on the State Building Codes Division. The auditor recommended that the Department of Commerce work with various local governments, building contractors, construction trade groups, insurance industry representatives, and fire officials to determine whether changes need to be made in the law or rules covering current exemptions to the state building, electrical, mechanical, and plumbing codes. To address the auditor's concerns, the Department of Commerce created a five-person task force. After public hearings in Billings and Missoula and accepting comments from the public, the recommendations came out. One of them is in SB 268. It was the task force's unanimous recommendation that homeowners doing their own plumbing obtain a plumbing permit and have their work inspected. She pointed out several exceptions explained in the bill. **SEN. SHEA** confirmed that homeowners can still do their own plumbing; however, for safety reasons, it should be permitted and inspected to make sure it is done right.

Proponents' Testimony:

Carl Schweitzer, Associated Plumbing and Heating Contractors of Montana, supported the bill, because it is a good public health and safety issue that needs to be addressed.

Dr. Keith Foster stated that as a new resident of Montana, he and his family purchased a home with major plumbing defects. He discussed the impact the current bill has had on his family. They moved from the mid-West after he accepted a position as a physician at a local healthcare facility. They purchased a house in northern Jefferson County with the assistance of a realtor. The owners/sellers of the home were the general contractors. The 3 1/2-bathroom house was built in 2000. Their realtor recommended a house inspector, who said the plumbing and other mechanics of the house passed inspection. They drove 1,700 miles to their new home in April. Three days later, a local plumber informed them there were multiple concerns about the plumbing in the house. This was discovered when they had a gas line installed for their dryer and inquired about a garbage disposal. After receiving an inspection by the state building inspector, he learned there were multiple plumbing violations. The two-page report of violations indicated that the drainage, waste and vent systems did not meet minimum requirements. After receiving multiple bids from licensed plumbers, they learned that much of the sheet rock from the walls and ceilings would need to be removed for repairs. The estimated cost was between \$18K to \$22K. The sellers were initially unwilling to assume any responsibility, so it became a further complicated situation for them. The consensus by all of the plumbers involved was that the plumbing needed to be cut off at the basement, and the entire

house needed to be re-plumbed. The reconstruction project began in October of 2002, and they had to vacate the home for over a week, as it was not feasible for he and his family to live there during the reconstruction process. At that time, it was also discovered that there was a concealed gas line unit in a fixed basement ceiling. **Dr. Foster** said they were fortunate to find an excellent general contractor to assist them with the project. He shared they were able to learn about the helpful and friendly people of Montana. They are finally unpacking and settling into their new home, which is now up to code with no safety concerns. They also know that if they someday sell the home, they would not be passing along any problems to unsuspecting buyers. He expressed that his purpose in speaking to the committee was so that other families who purchase homes in Montana to experience the many stresses they have experienced. He went on to state the many things they now know about building.

Steve Pallister, Pallister Plumbing, said that after 25 years in the business, he wanted to stress how important this bill is to public health. His professional opinion is that Montana is not enforcing a plumbing code. He cited three major examples of plumbing violations and stated there are three or four new ones each year. He shared the story of a family who lived in Grizzly Gulch who hired a friend to add on a bathroom to their home. In two years, the wife lost over 80 pounds and was very sick. When a friend suggested that Pallister Plumbing be called to check an odor in the house, **Mr. Pallister** found that a quick vent underneath of the lavatory was emitting methane gas. Her illness was due to methane gas poisoning. At a cost of almost \$11K, the entire bathroom had to be re-plumbed, and her health returned to normal.

{Tape: 1; Side: B}

Mr. Pallister continued on to tell the story of a wheelchair-bound Viet Nam veteran in Blue Sky Heights who had a similar problem. That gentleman sat in his wheelchair and cried when he found out how much it would cost to fix the problem, because he did not have the money to pay for the repairs. He was forced to move out of his house. **Mr. Pallister** did not want the committee to assume that plumbers were trying to create more work for themselves. His concern as a professional was to protect the health of individuals.

Opponents' Testimony:

Harold Blattie, private citizen, appeared in opposition to the bill. His concern was individuals in remote areas having to wait up to four months for an inspector to show up. He also did not

understand how an increase of .5 FTE shown on the fiscal note could allow for enough extra people to make their way around this big state to do inspections in a timely manner. While farm and ranch activities are excluded from the bill, rural residences are not. He raised the question of his being allowed to hook up an ice maker line in his own home. The delivery person could do the hookup; however, he could not. **Mr. Blattie** also raised the issue of having to pay for a permit to hook up his ice maker. He had questions about lawn sprinklers and permits for landscaping projects.

Informational Witness Testimony:

Jim Brown, Business Standards Division of the Department of Labor and Industry, offered any informational testimony needed by the committee.

Questions from Committee Members and Responses:

CHAIRMAN DALE MAHLUM inquired of **Bill Jellison, Building Code Bureau Chief, Department of Labor and Industry**, his opinion of how this bill would impact **Mr. Blattie's** sprinkler scenario. **Mr. Jellison** replied that it was not impacted. **SEN. MAHLUM** wanted to know if **Mr. Blattie** would be allowed, under this bill, to hook up his refrigerator, to which **Mr. Jellison** answered he could do it himself and he would not be required to obtain a permit.

SEN. MIKE SPRAGUE wanted **Mr. Jellison** to itemize what could be done in a bathroom by an individual. **Mr. Jellison** replied that the purpose of **SEN. SHEA's** bill is to allow inspection of those components of the plumbing that are ultimately buried behind permanent wall board. The plumbing permit is based on the number of fixtures that are in the house. With regard to the time it takes for an inspector to visit a site, **Mr. Jellison** said it does not take four months for an inspector to get to an inspection. There are six inspectors and, while they don't always get to their inspections in a timely manner, the majority of the time they do. In addition, they've asked for two new inspectors with this bill and they do not do inspections in larger cities which have their own inspectors.

SEN. VICKI COCCHIARELLA asked **Mr. Brown** what his department would do with the extra money they would get from the bill. **Mr. Brown** estimated 1,325 projects at an average cost of \$121. All of those funds would go into a state special revenue account, and each program pays for itself. If they end up with excessive funds, his department would cut fees.

CHAIRMAN MAHLUM discussed SB 242, which is now in front of the Supreme Court. If it were ruled constitutional, **Mr. Brown** said his department would take over the donut area/extended jurisdiction.

Closing by Sponsor:

SEN. SHEA closed by saying this process has been such an education. She thanked the informational witnesses for being present to answer questions as well as **Mr. Blattie** for his questions and input. Plumbing that doesn't meet code cause some serious health and safety issues. She thanked the committee for their time.

{Tape: 2; Side: A}

EXECUTIVE ACTION ON SB 228

Motion: SEN. SPRAGUE moved that SB 228 DO PASS AS AMENDED, **EXHIBIT**(bus26a03) (SB022801.aem) .

Substitute Motion/Vote: SEN. COCCHIARELLA made a substitute motion that SB 228 BE INDEFINITELY POSTPONED. Substitute motion carried 8-2 with SEN. ANDERSON and CHAIRMAN MAHLUM voting no.

EXECUTIVE ACTION ON SB 249

Motion/Vote: SEN. COCCHIARELLA moved that SB 249 DO PASS AS AMENDED, **EXHIBIT**(bus26a04) (SB024901.aem) . Motion carried 10-0.

{Tape: 2; Side: B}

EXECUTIVE ACTION ON SB 268

After a discussion, the consensus was to consider the amendments to the bill and wait before doing executive action.

ADJOURNMENT

Adjournment: 10:38 A.M.

SEN. DALE MAHLUM, Chairman

SHERRIE HANDEL, Secretary

DM/SH

EXHIBIT (bus26aad)