

EXHIBIT

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HOUSE JUDICIARY COMMITTEE

SENATE BILL 311

FRIDAY, MARCH 11, 2005

JOHN M. SHONTZ

LEE ENTERPRISES, INC.

Good morning Mr. Chairman and Members of the Committee. My name is John Shontz. I represent Lee Enterprises, Inc. and its newspapers in Montana.

We endorse the efforts in this bill as good and necessary in Montana. I submit a "pile" of health insurance solicitations which came to us via faxes that need to be addressed under this legislation.

In the last section of the bill, the definition of criminal deceptive practices in the bill is expanded to include the provisions of 33-1-1202 MCA.

We appreciate the sponsor and Auditor Morrison's statements in the legislative record that the placement of an ad by a party in a newspaper (or in a broadcast) does not give rise to liability under 33-1-1202(2) MCA.

As you may know, newspapers lack the ability to deny free speech (right or wrong) in replacement of advertising copy. The standard in Montana is:

A newspaper has the duty to investigate before publishing when it has facts that indicate material is highly suspect. *Sible v. Lee Enterprises, Inc.*, 224 Mont. 163, 729 P.2d 1271 (1986).

In Montana, before a suit for defamation can proceed against a media outlet, the outlet must be given the opportunity to publish a correction. A correction will remove the right to sue. 27-1-818 MCA (2003). See also 27-1-819 MCA; 27-1-820 MCA.

We note that the standard for media outlets does not address the legality of an ad but rather merely addresses the truth of the ad copy. Finally, we continue to cooperate with Auditor Morrison's office to make sure that bad actors do not use Montana's media to abuse the law or abuse or cheat Montana consumers. We strongly recommend that our newspapers check with the State Auditor's office to make sure that insurance plans and promotional copy has been approved by the Auditor's office before the copy is run.

If you have any questions, I would be happy to answer them.

Thank you.

