

**SENATE JOURNAL
58TH LEGISLATURE
EIGHTH LEGISLATIVE DAY**

Helena, Montana
January 15, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Stonington, excused. Quorum present.

The presiding officer has authenticated the daily journal for the seventh legislative day.

Senator Stonington present at this time.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 212, SB 213, SB 214, SB 215, SB 216.**

Correctly engrossed: **SB 71, SB 152.**

BUSINESS AND LABOR (Mahlum, Chairman):
SB 28, introduced bill, be amended as follows:

1/14/2003

1. Title, page 1, line 15.

Following: "LOAN;"

Insert: "INCREASING THE INSUFFICIENT FUNDS FEE FROM \$15 TO \$30; REQUIRING A VIOLATION FOR CIVIL REMEDIES TO BE INTENTIONAL;"

2. Title, page 1, line 16.

Following: "31-1-722,"

Insert: "31-1-724,"

3. Page 3, line 23.

Strike: "\$15"

Insert: "\$30"

4. Page 3, line 28.

Strike: "\$15"

Insert: "\$30"

5. Page 4, line 6.

Insert: "**Section 6.** Section 31-1-724, MCA, is amended to read:

"31-1-724. Civil remedies. (1) The remedies provided in this section are cumulative and apply to licensees and unlicensed persons to whom this part applies.

(2) Any intentional violation of this part constitutes an unfair or deceptive trade practice.

(3) Any person found to have intentionally violated this part is liable to the consumer for actual and consequential damages, plus statutory damages of \$1,000 for each violation, plus costs and attorney fees.

(4) A consumer may sue for injunctive and other appropriate equitable relief to stop a person from violating any provisions of this part.

(5) The consumer may bring a class action suit to enforce this part.

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(6) The remedies provided in this section are not intended to be the exclusive remedies available to a consumer for a violation of this part."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 36, introduced bill, be amended as follows:

1. Title, page 1, line 10.

Following: "COURT"

Insert: "IS A SOLE PROPRIETOR AND"

Following: "NOT"

Strike: "A"

Insert: "AN EMPLOYEE OF THE"

Following: "BRANCH"

Strike: "EMPLOYEE"

Following: "BRANCH"

Insert: ", A LOCAL GOVERNMENT, OR A WATER USER"

2. Page 2, line 10.

Following: "purchase"

Insert: "a"

Following: "insurance"

Insert: "policy, elect"

3. Page 2, line 11.

Following: "coverage"

Insert: "on themselves"

4. Page 2, line 26.

Following: "court"

Insert: "is a sole proprietor and"

Following: "branch"

Insert: ", a local government, or a water user"

5. Page 2, line 27.

Following: line 26

Insert: "(7) A water commissioner who fails to obtain workers' compensation insurance coverage required by subsection (4) is precluded from receiving benefits under Title 39, chapter 71 or 72, as a result of the performance of duties as a water commissioner. "

And, as amended, do pass. Report adopted.

SB 40, do pass. Report adopted.

1/15/2003

JUDICIARY (Grimes, Chairman):

1/15/2003

SB 56, introduced bill, be amended as follows:

1. Page 1, line 20.

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Following: "longest"

Insert: "single"

2. Page 3, line 4 through line 6.

Following: "exceed the" on line 4

Strike: remainder of line 4 through "46-14-214" on line 6

Insert: "maximum sentence determined under 46-14-214(2)"

And, as amended, do pass. Report adopted.

SB 64, introduced bill, be amended as follows:

1. Page 2, line 3.

Following: "attorney;"

Strike: "and"

2. Page 2, line 5.

Following: "heading"

Insert: "; and

(i) the name and address of the mental health facility to which it is proposed that the respondent may be committed, if known"

3. Page 2, line 10.

Following: "hand-delivered"

Strike: "or"

Insert: ", "

Following: "mailed"

Insert: ", or sent by a facsimile transmission"

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Tash, Chairman):

1/13/2003

SB 5, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/14/2003

HB 39, introduced by Gallik

HB 65, introduced by Matthews

MOTIONS

SB 68 - Senator Grimes moved that **SB 68** be taken from second reading and rereferred to the committee on Judiciary. Motion carried.

SB 201 - Senator Nelson moved that **SB 201** be taken from the committee on Energy and Telecommunications and rereferred to the committee on Business and Labor. Motion carried.

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SB 185 - Senator DePratu moved **SB 185** be taken from the committee on Business and Labor and rereferred to the committee on Taxation. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 217, introduced by Mahlum, Bohlinger, Cooney, referred to Highways and Transportation.

SB 218, introduced by McNutt, referred to Judiciary.

SB 219, introduced by Toole, referred to Energy and Telecommunications.

SB 220, introduced by F. Thomas, R. Brown, Brueggeman, DePratu, Ellingson, Fuchs, Keenan, Laszloffy, McNutt, Stonington, Story, Tester, Wheat, referred to Energy and Telecommunications.

SB 221, introduced by Kitzenberg, referred to Fish and Game.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 14 - Senator McCarthy moved **SB 14** do pass. Motion carried unanimously.

The Senate stood at ease.

Students from the School for the Deaf and Blind located in Great Falls, presented contemporary songs accompanied with sign language.

Senate resumed.

SB 49 - Senator Shea moved **SB 49** do pass. Motion carried unanimously.

SB 51 - Senator Bohlinger moved **SB 51** do pass. Motion carried unanimously.

SB 54 - Senator Bohlinger moved **SB 54** do pass. Motion **failed** as follows:

Yeas: Bohlinger, Cobb, Cooney, Cromley, Ellingson, Hansen, Harrington, Johnson, Nelson, Pease, Roush, Ryan, Schmidt, Sprague, Squires, Stonington, Taylor, Tester, Thomas, Toole, Wheat, Mr. President.

Total 22

Nays: Anderson, Bales, Barkus, Black, Butcher, Cocchiarella, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, O'Neil, Perry, Shea, Stapleton, Story, Tash, Tropila, Zook.

Total 28

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 84 - Senator Cocchiarella moved **SB 84** do pass. Motion carried unanimously.

SB 87 - Senator Hansen moved **SB 87** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Ellingson.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 104 - Senator Tester moved **SB 104** do pass. Motion carried unanimously.

SB 113 - Senator Esp moved **SB 113** do pass. Motion carried as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 125 - Senator Tester moved **SB 125** do pass. After discussion, Senator Johnson made a substitute motion that **SB 125**, second reading copy, be amended as follows:

1. Title, page 1, line 7.

Following: "BUSINESSES;"

Insert: "REQUIRING WRITTEN NOTICE FOR AN OFFER TO NOT MORE THAN 10 PERSONS;"

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2. Page 2, line 23.

Strike: "and"

3. Page 2, line 27.

Following: "amended"

Insert: "; and

(iii) the offeror notifies the commissioner, in writing, on a form provided by the commissioner, of the offeror's intent to use the exemption provided for in this subsection (8)(a)"

Amendment **not** adopted as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Curtiss, DePratu, Esp, Glaser, Johnson, Perry, Stapleton, Tash, Taylor, Thomas, Zook, Mr. President.

Total 17

Nays: Bales, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tester, Toole, Tropila, Wheat.

Total 33

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 125 - Senator Tester's motion that **SB 125** do pass carried as follows:

Yeas: Anderson, Bales, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 46

Nays: Barkus, Johnson, Stapleton, Zook.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Senator Thomas moved to **segregate SB 54** from the Committee of the Whole Report. Motion carried. Chairman Tropila moved the remainder of the Committee of the Whole report be adopted. Report adopted unanimously.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 22 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 69 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 49

Nays: Laible.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

SB 54 - Senator Thomas moved **SB 54** be taken from the second reading board and rereferred to the committee on State Administration. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, January 16, 2003. Motion carried.

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Senate adjourned at 3:13 p.m.

ROSANA SKELTON
Secretary of Senate

BOB KEENAN
President of the Senate