

**SENATE JOURNAL
63RD LEGISLATURE
TWENTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
February 6, 2013

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Essmann presiding. Invocation by Father Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Jent and Taylor, excused. Quorum present.

BILLS AND JOURNALS (Buttrey, Chair): 2/6/2013

Correctly printed: **SB 88, SB 142, SB 245, SB 246, SB 247, SB 248, SB 249, SB 250, SB 251, SB 252, SB 254, HB 17, HB 41, HB 53, HB 107, HB 137.**

Correctly engrossed: **SR 3.**

Transmitted to the House: **SB 150, SB 164, SB 194, HB 56.**

Signed by the Secretary of the Senate at 3:30 p.m., February 5, 2013: **SB 8, SB 50.**

Signed by the President at 4:00 p.m., February 5, 2013: **SB 8, SB 50.**

Signed by the Speaker at 9:30 a.m., February 6, 2013: **SB 8, SB 50.**

Delivered to the Governor for approval at 12:57 p.m., February 6, 2013: **SB 8, SB 50.**

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Sonju, Chair): 2/6/2013
SB 120, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Following: "NUMBER OF"

Insert: "CERTAIN"

2. Title, page 1, line 6.

Following: "CONSUMPTION;"

Insert: "LIMITING EXPANSION TO OWNERSHIP OF 50% OR LESS OF THE ALLOWABLE LICENSES IN A QUOTA AREA;"

Strike: "SECTION"

Insert: "SECTIONS 16-4-205 AND"

3. Page 1.

Following: line 9

Insert: "**Section 1.** Section 16-4-205, MCA, is amended to read:

"16-4-205. ~~Limit one license to person~~ Limitation on number of licenses -- business in name of licensee. (1) A Subject to the provisions of 16-4-401, a person may not be issued more than one three all-beverages license ~~in any year~~ licenses, with the exception of a secured party issued an additional all-beverages license as the result of a default. A secured party shall transfer ownership of any additional all-beverages license within 180 days of issuance. A business may not

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be carried on under any license issued under this chapter except in the name of the licensee.

(2) The provisions of this section do not apply to licenses held by the Montana heritage preservation and development commission under the provisions of 16-4-305."

Renumber: subsequent section

4. Page 1, line 13.

Following: "section"

Insert: "and subject to subsection (8)"

5. Page 1, line 17.

Following: "(i)"

Insert: "and the application is approved,"

6. Page 2, line 5.

Following: the second "corporation"

Insert: "except that the provisions of subsection (8) apply"

7. Page 2, line 17.

Following: the second "corporation"

Insert: "except that the provisions of subsection (8) apply"

8. Page 2, line 29.

Following: "consumption"

Insert: "and subject to subsection (8)"

9. Page 3, line 3.

Following: "(i)"

Insert: "and the application is approved,"

10. Page 6.

Following: line 1

Insert: "(8) An individual applying for an all-beverages license or having any ownership interest in an entity applying for an all-beverages license may not, if the application were to be approved, own an interest in more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201."

Insert: "NEW SECTION. **Section 2. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe."

And, as amended, do pass. Report adopted.

SB 127, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "GENERALLY" through "LAW;"

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Following: the second "REVISING"

Insert: "THE"

2. Title, page 1, line 5 through line 6.

Following: "MISCONDUCT"" on line 5

Insert: "FOR UNEMPLOYMENT INSURANCE PURPOSES"

Strike: "REVISING" on line 5 through "BENEFITS;" on line 6

Strike: "SECTIONS" on line 6

Insert: "SECTION"

Strike: "AND 39-51-2104" on line 6

3. Page 4, line 9.

Following: "employer"

Insert: ", including:

(A) insubordination showing a deliberate, willful, or purposeful refusal to follow the reasonable directions, processes, or instructions of the employer;

(B) repeated inexcusable tardiness following warnings by the employer;

(C) dishonesty related to employment, including but not limited to deliberate falsification of company records, theft, deliberate deception, or lying;

(D) false statements made as part of a job application process, including but not limited to deliberate falsification of the individual's criminal history, work record, or educational or licensure achievements;

(E) repeated and inexcusable absences, including absences for which the employee was able to give advance notice and failed to do so;

(F) deliberate acts that are illegal, provoke violence or violation of the law, or violate a collective bargaining agreement by which the employee is covered. However, an employee who engages in lawful union activity may not be disqualified because of misconduct under this subsection (19)(a)(i)(F).

(G) violations of a company rule if the rule is reasonable and if the claimant knew or should have known of the existence of the rule; or

(H) actions by the claimant who, while acting within the scope of employment, commits violations of law that significantly affect the claimant's job performance or that significantly harm the employer's ability to do business"

4. Page 6, line 1 through page 7, line 5.

Strike: section 2 in its entirety

And, as amended, do pass. Report adopted.

SB 174, do pass. Report adopted.

SB 183, do pass. Report adopted.

SJR 11, do pass. Report adopted.

HB 58, be concurred in. Report adopted.

FISH AND GAME (Brenden, Chair):

2/5/2013

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HB 73, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Arntzen, Chair): 2/5/2013
HB 55, be concurred in. Report adopted.

JUDICIARY (Murphy, Chair): 2/6/2013
SB 112, introduced bill, be amended as follows:

1. Title, page 1, line 10.

Following: "CLARIFYING"

Strike: "THE INTENT OF THE ACT TO CREATE NO"

Insert: "THAT THE ACT DOES NOT CREATE A"

2. Page 2, line

Following: "(2)"

Strike: remainder of line 12

Insert: "[Sections 2 through 5] do not create a new cause of action."

3. Page 3, line 2.

Strike: "physician" through "nurse"

Insert: "health care professional"

4. Page 3, line 4.

Following: "sponsored"

Strike: "or sanctioned"

And, as amended, do pass. Report adopted.

SB 213, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate: 2/5/2013

SB 29, introduced by Buttrey

SB 46, introduced by Vuckovich

SB 64, introduced by Facey

House bills passed and transmitted to the Senate for concurrence: 2/5/2013

HB 128, introduced by Hollenbaugh

HB 208, introduced by O'Neil

HB 245, introduced by Edmunds

HB 252, introduced by Ingraham

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HB 270, introduced by Schwaderer

HB 308, introduced by Lang

MOTIONS

Senator Tropila moved to reconsider yesterday's action to indefinitely postpone **SB 159** and that **SB 159** be placed on second reading on tomorrow's date. Motion **failed** as follows:

Yeas: Augare, Barrett Dick, Blewett, Caferro, Driscoll, Facey, Hamlett, Jergeson, Jones, Kaufmann, Keane, Larsen, Malek, Phillips, Sesso, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Windy Boy.

Total 21

Nays: Arntzen, Arthun, Barrett Debby, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Fielder, Jackson, Lewis, Moore, Murphy, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sonju, Thomas, Tutvedt, Vincent, Walker, Webb, Wittich, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Jent, Taylor.

Total 2

FIRST READING AND COMMITMENT OF BILLS

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

HB 22, introduced by Dudik (by request of the State Auditor), referred to Business, Labor, and Economic Affairs.

HB 36, introduced by Boland (by request of the Revenue and Transportation Interim Committee), referred to Taxation.

HB 45, introduced by Lavin (by request of the Law and Justice Interim Committee), referred to Judiciary.

HB 46, introduced by Ingraham (by request of the Commissioner of Political Practices), referred to State Administration.

HB 50, introduced by Howard, referred to Local Government.

HB 54, introduced by Ingraham, (by request of the Teachers' Retirement Board) referred to the Joint Select Committee on Pensions.

HB 59, introduced by Lynch (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.

HB 64, introduced by Ingraham (by request of the Commissioner of Political Practices), referred to State Administration.

HB 70, introduced by MacDonald (by request of the Law and Justice Interim Committee), referred to Judiciary.

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HB 72, introduced by MacDonald (by request of the Law and Justice Interim Committee), referred to Judiciary.

HB 74, introduced by MacDonald (by request of the Law and Justice Interim Committee), referred to Judiciary.

HB 77, introduced by Ingraham (by request of the Department of Public Health and Human Services), referred to Local Government.

HB 82, introduced by Reichner (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

HB 94, introduced by Lieser (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

HB 110, introduced by Pease-Lopez (by request of the State-Tribal Relations Committee), referred to State Administration.

HB 115, introduced by Clark (by request of the Department of Livestock), referred to Agriculture, Livestock and Irrigation.

HB 124, introduced by O'Hara (by request of the Commissioner of Political Practices), referred to State Administration.

HB 125, introduced by O'Hara (by request of the Commissioner of Political Practices), referred to State Administration.

HB 130, introduced by Fitzpatrick (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

HB 131, introduced by Gursky (by request of the Department of Public Health and Human Services), referred to Judiciary.

HB 138, introduced by Hertz (by request of the Department of Administration), referred to Business, Labor, and Economic Affairs.

HB 141, introduced by Noonan (by request of the Department of Justice), referred to Business, Labor, and Economic Affairs.

HB 145, introduced by Harris, referred to State Administration.

HB 155, introduced by D. Moore, referred to Highways and Transportation.

HB 169, introduced by White, Pomnichowski, Redfield, Regier, referred to Local Government.

HB 172, introduced by O'Hara, Fitzpatrick, referred to Judiciary.

HB 190, introduced by Knudsen, Webb, Wittich, referred to Business, Labor, and Economic Affairs.

HB 193, introduced by Hagan, Bangert, Ingraham, referred to Local Government.

HB 202, introduced by Hagan, Arntzen, Facey, McCarthy, referred to Business, Labor, and Economic Affairs.

HB 212, introduced by Knudsen, Sonju, referred to Business, Labor, and Economic Affairs.

HB 243, introduced by Wilson, referred to Business, Labor, and Economic Affairs.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 2, introduced by Hollenbaugh (by request of the Select Committee on Efficiency in Government), referred to State Administration.

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

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

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

SB 105 - Senator T. Brown moved **SB 105** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Fielder, Jackson, Jones, Lewis, Moore, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sonju, Taylor, Thomas, Tutvedt, Vincent, Walker, Webb, Mr. President.

Total 27

Nays: Augare, Barrett Dick, Blewett, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Kaufmann, Keane, Larsen, Malek, Murphy, Phillips, Sesso, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Windy Boy, Wittich.

Total 23

Paired: Moore, Taylor, Aye; Jent, Larsen, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 144 - Senator Sesso moved **SB 144** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 46

Nays: Kaufmann, Phillips.

Total 2

Absent or not voting: None.

Total 0

Excused: Jent, Taylor.

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Total 2

SB 11 - Senator Caferro moved **SB 11** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent, Taylor.

Total 2

Senator Wittich moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Essmann presiding. Chair F. Moore moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Keane, Larsen, Lewis, Moore, Murphy, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Webb, Windy Boy, Wittich, Mr. President.

Total 44

Nays: Kaufmann, Malek, Phillips, Wanzenried.

Total 4

Absent or not voting: None.

Total 0

Excused: Jent, Taylor.

Total 2

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 88 passed as follows:

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Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, T. Brown, Buttrey, Caferro, Driscoll, Facey, Hamlett, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 44

Nays: D. Brown, Fielder, Jackson, Stewart-Peregoy.
Total 4

Absent or not voting: None.
Total 0

Excused: Jent, Taylor.
Total 2

SB 142 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sesso, Sonju, Stewart-Peregoy, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 46

Nays: D. Brown, Sales.
Total 2

Absent or not voting: None.
Total 0

Excused: Jent, Taylor.
Total 2

HB 41 concurred in as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.
Total 48

Nays: None.
Total 0

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Absent or not voting: None.

Total 0

Excused: Jent, Taylor.

Total 2

HB 53 concurred in as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent, Taylor.

Total 2

MOTIONS

Senator Blewett moved to change his vote on **SB 105** from Yes to No. Without objection, so ordered.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Wittich moved that the Senate adjourn until 1:00 p.m., Thursday, February 7, 2013, the twenty-seventh legislative day. Motion carried.

Senate adjourned at 2:00 p.m.

MARILYN MILLER
Secretary of the Senate

JEFF ESSMANN
President of the Senate