

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **REP. JOE MCKENNEY**, on January 8, 2003 at 8:00 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Jim Keane, Vice Chairman (D)
Rep. Donald Steinbeisser, Vice Chairman (R)
Rep. Bob Bergren (D)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Ray Hawk (R)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Gary Matthews (D)
Rep. Scott Mendenhall (R)
Rep. Penny Morgan (R)
Rep. Allen Rome (R)
Rep. Sandy Weiss (D)

Members Excused: Rep. Bill Wilson (D)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Alberta Strachan, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 79, HB 49, HB 50, HB 33,
HB 65
Executive Action: HB 49

HEARING ON HB 79**Opening Statement by Sponsor:**

REP. VERDELL JACKSON, HD 79, KALISPELL, stated this bill was an act a person or nonprofit organization is not liable for civil damages resulting from the persons or organizations placement of a sign or marker warning of a hazard in water legally accessible to the public.

{Tape: 1; Side: A; Approx. Time Counter: 0.5 - 1}

Proponents' Testimony:

Robert Friedman, Ashley Lake Property Owners Association, Inc., said in the absence of a government-sponsored program for placing hazard markers on Montana waterways accessible to boating, a few private individuals and non-profit organizations have place markers where appropriate. The potential exists for legal action if someone accidentally strikes the marker or strikes some adjacent hazard that was not marked. Hazard markers take many forms and the most common is an empty plastic bottle. Ideally, the Coast Guard places and maintains a permanent or semi-permanent standardized hazard marker or buoy. This requires an adequate budget with administration and maintenance services. The immediate need for protecting the boating public from striking unseen object requires flexibility if apply marker standards and protection of the "Good Samaritan" individual or non-profit organization that is willing to mark the obvious hazard. Passing a law that allows individuals and non-profit organizations to act to protect others from boat damage without exposure to legal action is in the best public interest.

EXHIBIT (buh03a01)

{Tape: 1; Side: A; Approx. Time Counter: 2 - 184}

Robin Cunningham, Fishing Outfitters Association, Gallatin Gateway, said that, in the many times he had traveled the waterways, hazard indicators were not identified by either the Fish & Game or private individuals.

{Tape: 1; Side: A; Approx. Time Counter: 185 - 201}

Lee Shannon, Ashley Lake home owner, said he certainly understands the key thing an individual can do to save their property or injury to another is a good program.

{Tape: 1; Side: A; Approx. Time Counter: 202 - 264}

Opponents' Testimony:

Al Smith, Montana Trial Lawyers Association, said this bill would prevent an injured person from even taking his case to the jury

and with this bill the Legislature would be deciding all future cases, no matter what the facts may be. It is a jury of peers from the community that judge cases of this nature. Suits for the simple marking of hazards that are marked in good faith, are unlikely to be brought, or if brought, won. He suggested it was best to leave this matter in the hands of a jury and to trust juries of your constituents to make the right and fair decision.

EXHIBIT (buh03a02)

{Tape: 1; Side: A; Approx. Time Counter: 265 - 295}

Jeff Hagener, Director, Montana Department of Fish, Wildlife & Parks (FWP), said his opposition to this bill is that FWP. feels without some agency supervision of direction, our states' waters will become marked with any device that will float; there is no consideration for the maintenance or removal of these devices as water conditions and season change; marking of some underwater hazards implies to the recreational boater that all of the hazards are marked on that particular body of water and also FWP. has had trouble with private individuals marking their own property closures on public waters. He also suggested that buoys be installed at water hazards by Coast Guard officials only.

EXHIBIT (buh03a03)

{Tape: 1; Side: A; Approx. Time Counter: 295 - 302}

REP. BOOKOUT-REINICKE arrived for the hearing.

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. KEANE asked how to define catastrophe. **Mr. Cropp** answered by stating it was a disaster.

{Tape: 1; Side: A; Approx. Time Counter: 303 - 322}

REP. BOOKOUT-REINICKE said that she favored the Coast Guard-approved buoy but wondered if it would be a financial hardship to purchase those. **Mr. Friedman** said he was not against that opportunity. It would take a considerable amount of time and money in marking, and he believes the individual would not be able to afford this process. **REP. BOOKOUT-REINICKE** then asked if he would be opposed to an amendment that would require a temporary marker until a more suitable marker could be installed by the Department of Fish, Wildlife & Parks.

{Tape: 1; Side: A; Approx. Time Counter: 323 - 360}

REP. MENDENHALL asked if other states had this problem. **Mr. Cropp** stated there was a lot more boating in other areas so he

said he would tend to agree there were problems elsewhere.

{Tape: 1; Side: A; Approx. Time Counter: 361 - 370}

REP. LAWSON asked **Mr. Smith** if there would be a lack of liability if a hazard were not marked. **Mr. Smith** replied that there would be.

{Tape: 1; Side: A; Approx. Time Counter: 371 - 380}

Closing by Sponsor:

REP. JACKSON in closing said he didn't believe anyone had ever been sued for this. The Good Samaritan laws raise the standard. The standard now is negligence and this is paradise for trail lawyers. ***{Tape: 1; Side: A; Approx. Time Counter: 381 - 420}***

HEARING ON HB 49

Opening Statement by Sponsor:

REP. DICK HAINES, HD 63, Missoula, said this bill was an act revising laws relating to public swimming pools and public bathing places; defining "spa" and "tourist home" and clarifying the definitions of "public bathing place" and "public swimming pool"; exempting tourist homes that have spa facilities from the requirement of having persons trained in cardiopulmonary resuscitation on the premises. It also eliminates the exemption for the state and its political subdivisions to obtain licenses to operate public swimming pools and public bathing places.

{Tape: 1; Side: A; Approx. Time Counter: 421 - 502}

Proponents' Testimony:

Terry Krantz, Bureau Chief, Communicable Disease Control & Prevention Bureau, Department of Public Health & Human Services, said that discussions between the Department and Tourist Home Operators have identified that the current statute is preventing licensure and approval of spas operated in the setting described in this proposed bill because the operator or manager is not present during the use of these spas. The Department believes that this change will accommodate the nature of tourist home operations and maintain a sanitary, healthful and safe method of operation.

{Tape: 1; Side: B; Approx. Time Counter: 1 - 122}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

The Sponsor closed.

{Tape: 1; Side: B; Approx. Time Counter: 139 - 154}

HEARING ON HB 50

Opening Statement by Sponsor:

REP. HAINES, HD 63, Missoula, stated this was an act generally revising the Montana Food, Drug, and Cosmetic Act. It eliminates requirements for water bottlers, defines "dietary supplement" and adds the term to the definition of "food". It clarifies that a food service establishment means a place that serves food at retail to the public, clarifies the definition of "retail meat establishment," and eliminates permit requirements for manufacturing, processing, or packaging food because those requirements are provided for elsewhere in state law.

{Tape: 1; Side: B; Approx. Time Counter: 159 - 175}

Proponents' Testimony:

Terry Krantz, Bureau Chief, Communicable Disease Control & Prevention Bureau, Department of Public Health & Human Services, said that since the last modification of the act, changes have occurred in several areas, including provisions related to water bottling and dietary supplements. The proposed legislation strikes definitions and requirements related to water bottling because of the adoption of federal regulations in 1996, which pre-empted the standards of states that were not consistent. States may still enforce local provisions that do not specifically conflict with or defeat the uniform federal standards and definitions. Therefore, licensing of water bottlers is still required by the Department to enforce Montana regulation regarding packaged ice, bottled water and the federal uniform standards.

EXHIBIT (3)

{Tape: 1; Side: B; Approx. Time Counter: 177 - 249}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. MORGAN said these definitions which she questions appear in federal statute and are therefore no longer needed in the state statute. The definitions we have in state statute conflict with federal standards. This bill is to adopt by reference the federal standards for water.

{Tape: 1; Side: B; Approx. Time Counter: 256 - 281}

REP. BOOKOUT-REINICKE asked if the above-mentioned statement could be confirmed by the next hearing.

{Tape: 1; Side: B; Approx. Time Counter: 282 - 301}

Closing by Sponsor:

The Sponsor closed.

{Tape: 1; Side: B; Approx. Time Counter: 282 - 309}

HEARING ON HB 33

Opening Statement by Sponsor:

REP. GEORGE GOLIE, HD 44, Great Falls, said this bill was an act adopting mountain standard time and not mountain daylight time as the only time to be used in Montana.

{Tape: 1; Side: B; Approx. Time Counter: 310 - 455}

Proponents' Testimony:

Les Nelson, Former House of Representatives, Great Falls, said that the people he had spoken with did not like daylight savings time and it was a huge inconvenience.

{Tape: 1; Side: B; Approx. Time Counter: 459 - 500}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. MORGAN questioned if his comment about keeping standard time for the safety of children is better in the morning or evening.

REP. GOLIE said rural Montana school children require bus service very early in the morning and it is too dark.

{Tape: 2; Side: A; Approx. Time Counter: 16 - 62}

REP. STEINBEISSER commented that in his district children were picked up in two time zones since they are living very close to North Dakota. In some instances this is a two-hour difference.

{Tape: 2; Side: A; Approx. Time Counter: 188 - 221}

Closing by Sponsor:

The Sponsor closed.

{Tape: 2; Side: A; Approx. Time Counter: 63 - 81}

HEARING ON HB 65

Opening Statement by Sponsor:

REP. GARY MATTHEWS, HD 4, Miles City, said this was an act generally revising dentistry and dental hygiene laws.

{Tape: 2; Side: A; Approx. Time Counter: 83 - 101}

Proponents' Testimony:

Kevin Brown, Department of Labor and Industry, provided an amendment for committee. He stated a letter had been received from a retired dentist who indicated that the proposal is not restrictive. The major issue was that retired dentists could provide service without charging a fee if they have only been retired for less than five years. The five year restriction in this bill would remove the five year restriction. The Board of Dentistry can determine if the individual is competent to practice.

{Tape: 2; Side: A; Approx. Time Counter: 102 - 169}

Deana Stanley, Secretary for the Board of Dentistry, said this bill is a proactive measure to address the lack of access to dental care of the underserved in Montana.

EXHIBIT (buh03a04)

{Tape: 2; Side: A; Approx. Time Counter: 173 - 225}

Mary McCue, Executive Director, Montana Dental Association, said the Association had followed the development of this bill and do strongly support it because the portions that deal with dental students will bring some students into Montana and get them familiar with the state. They will become familiar with the opportunity offered and this will encourage them to come back and practice in Montana. With the use of retired dentists, it is the hope of the Association that these dentists will go into the public clinics and do charitable work.

{Tape: 2; Side: B; Approx. Time Counter: 230 - 268}

Sharon McCullough, Department of Labor, introduced a letter from Sue Cox of the Montana Dental Hygienists Association which stated that access to oral health care is a critical need of many Montanans. This bill begins to address part of the solution to meeting this crisis.

{Tape: 2; Side: B; Approx. Time Counter: 269 - 291}

Sharon Kott, Program Coordinator, Montana Area Health Education Center, Montana State University, Bozeman, fully supports this bill. They currently have a program where medical students, nurse practitioners students, physician assistant students and medical residents in rural areas and medically underserved areas to do month-long rotations. It is the hope of the program that students will return to Montana to live.

{Tape: 2; Side: B; Approx. Time Counter: 293 - 326}

Alan Strange, Montana Primary Care Association, supports this bill. There is a shortage of dentists in Montana and passage of this bill will provide Montana with better distribution of dentists and hopefully give more care to some areas which has been deprived.

{Tape: 2; Side: B; Approx. Time Counter: 327 - 381}

Joan Dodson, Bureau Chief, Family & Community Health Bureau, Department of Health, said there are unmet needs and disparities in dental access and dental health status among vulnerable populations in the U.S. and in Montana. Dental disease is becoming a disease of poverty and special populations. This bill will help address the need and the disparity.

EXHIBIT (buh03a05)

{Tape: 2; Side: B; Approx. Time Counter: 381 - 399}

Mary Beth Frideras, Summitt Dental Clinic #1 and #2, said this bill represents the spirit and intent of several issues that were brought up to broad-based statewide effort and supports the bill.

{Tape: 2; Side: B; Approx. Time Counter: 399 - 435}

Opponents' Testimony:

Lee Weiser, Denturist, Bozeman, said he only opposed sections 3 and 4 of the bill. Also in regard to this bill he opposes it on bill procedural and substantive grounds.

{Tape: 2; Side: B; Approx. Time Counter: 436 - 444}

Questions from Committee Members and Responses:

REP. GALVIN-HALCRO asked **Mr. Weiser** what the difference was between dentists and denturists and **Mr. Weiser** reiterated to her

the difference; a dentist has a more extensive education and a denturist has a schooling and training.

{Tape: 2; Side: B; Approx. Time Counter: 444 - 452}

Closing by Sponsor:

REP. MATTHEWS closed by saying there would be amendments to consider on Sections 3 and 4 to take care of this bill.

{Tape: 2; Side: B; Approx. Time Counter: 452 - 461}

EXECUTIVE ACTION ON HB 49

{Tape: 2; Side: B; Approx. Time Counter: 461 - 475}

Motion: REP. BOOKOUT-REINICKE moved that HB 49 DO PASS.

Motion/Vote: REP. BOOKOUT-REINICKE moved AMENDMENTS. Motion carried 18-0.

Motion/Vote: REP. BOOKOUT-REINICKE moved that HB 49 DO PASS AS AMENDED. Motion carried 18-0.

ADJOURNMENT

Adjournment: 10:45 A.M.

REP. JOE MCKENNEY, Chairman

ALBERTA STRACHAN, Secretary

JM/AS

EXHIBIT (buh03aad)