

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1243

2001 HOUSE TRANSPORTATION

HB 1243

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1243

House Transportation Committee

Conference Committee

Hearing Date January 25, 2001

Tape Number	Side A	Side B	Meter #
1	x		4,824
		x	To 455
Committee Clerk Signature <i>Lawrence J. French</i>			

Minutes: Rep. Weisz - Chairman opened the hearing on HB 1243; A BILL for an Act to create and enact a new section to chapter 23-10 of the North Dakota Century Code, relating to the right to assemble in a mobile home park.

Rep. Maragos: I am appearing as sponsor and as a supporter of this bill on behalf of the mobile home owners. I think the bill is quite self explanatory so I will not try to say anything as the mobile home owners will speak to their concerns.

Kent French: We ( with Bill Delmore ) are here not to support this bill but we want you to know that we do not oppose it. We feel there are laws in place now that will take care of this but if the committee feels they need to pass it. It won't hurt anything.

Bill Delmore: On behalf of the Manufactured Housing Association, to amplify what Mr. French has said we are comfortable with this bill. The U S Constitution gives the people the right to assemble. If there is any concern and you think it ought to be codified, we are comfortable with it.

Roger Deitrich: I am here on behalf of the association from Minot. Every American knows that you can invite people into your home to speak on any subject. The new owner of three mobile home parks in Minot will not recognize the formation of a tenants association. The owner said he would not work with an association. The people who work for the new owner have gone to great lengths to put up barriers to stop the association. They stopped the president as she was hand carrying and her girls were hand delivering newsletters. They said this was soliciting. My understanding of soliciting is the selling of goods. These letters were addressed to the association members. Then one of the helpers accidentally gave a copy of one of the letters to the managers thinking they were people that lived there because they drove into the driveway of the people who lived there. They then refused to give the letter back. Legal Aid then had to get the letter returned. When the association had to have a place to post their bulletins. The only park that had one then and tore it (? the letter) down. A copy of that is attached as well. The association feels that is intimidation by the new owners to stop the association. We will move ahead and get bigger.

We would like this to be in place in addition to federal law when butting heads with the owners and managers and the association.

Rep. Weisz - Chairman : ( 5540 ) You mentioned that Legal Aid was involved in the one instance, have you brought any of these to the attention of your local States Attorney?

Mr. Deitrich: Not at this point, no.

Rep. Carlson: Would Mr. Delmore come back to the podium? You commented that this is already in law. As I read it, it appears to me that every right they are asking for here should be covered somewhere. Are we creating a subsection that overlays some other section?

Bill Delmore: It has been twenty five years since I was in law school and since then some of those rights may have been restricted; if not infringed. The people in the association may have allowed this to happen. I am not an expert in this area of law but I believe there are covered to have the right to assemble and organize.

Rep. Carlson; I don't believe that just because they signed a lease with the park that also signed away their rights that they would normally have.

Rep. Ruby: ( 5899 ) What about the provision for posting of bulletin boards? Is that a common thing all parks provide? Or is that a requirement for each park to decide?

Bill Delmore: I believe most parks have them. If not we would policy wise notify our association. However the right to post is not the same as the right to free speech.

Rep. Mahoney: Its been awhile since I too have had this kind of law stuff. But isn't it a risk that when you try to codify something that is a constitutional right that you sometimes can say you have these rights and you end up limiting your rights. Whereas it is pretty open and clear before you muddied the waters with your legislation?

Bill Delmore: That's right, sometimes you end up restricting your authority in a discrimination action. If this were to come up again I would rather rely on the constitution than under a specific state statute. ( 6219 ) GO TO SIDE B :

Ken Bullinger: I am here representing the Food and Lodging Division of the Health Department. Mr. Bullinger provide written testimony. He appeared neither for nor against the legislation in the series of bills the home sponsored but rather to offer some suggested amendments. A copy of Mr. Bullinger's prepared remarks are attached.

Rep. Mahoney: It crossed my mind, if we passed HB1243 with the rights to assemble and all that, inasmuch there is no penalty provision, what could we do if the owners violated these provisions?

Ken Bullinger: If this was place in 23-10, most of our violation are Class B misdemeanors. I am not sure right now what some of the penalty provisions are.

Rep. Mahoney: That would likely come under 'operating without a license' and things like that. It seems like this would create an enforcement problem for you.

Ken Bullinger: That is why I am testifying here today.

Rep. Carlson: That is exactly my question, why is this in the section of the code for the Health Department. Shouldn't it be in the Fair Housing section?

Rep. Weisz - Chairman it appears to me that you are suggesting to us the we are in the wrong section of the code.

Ken Bullinger: Yes, sir.

There being no one appearing to give futher testimony in support of HB 1243 and no one appeared to speak in opposition to HB 1243. Chairman Weisz closed the hearing on receipt of any further testimony on HB 1243. ( 455 ).

NOTE: Other persons not appearing but present furnished written statements. Copies of these are attached.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1243 B

House Transportation Committee

Conference Committee

Hearing Date February 1, 2001

Tape Number	Side A	Side B	Meter #
2	x		2,474
			End 3889
Committee Clerk Signature <i>Laurance H. Fink</i>			

Minutes: Rep. Weisz - Chairman opened discussion for action on HB 1243.

Rep. Weisz - Chairman HB 1243 is our mobile home bill and the right to assemble. I have letter here from John ????, Legislative Council. We had asked them to check on the constitutionality about the right to assemble. Generally these rights are defined in the constitution under the first amendment. The provisions are that no right to speech --- and peaceful assembly, etc. shall be abridged. This applies to actions by the government. Rules and actions within a mobile home park are not governmental actions. There possibly could be an exception if the mobile home park owner usurp or was acting in a governmental function. It would appear though that the concern here is vague enough so as not come under those( constitutional) protections. The mobile park owner would have the same basic rights as an apartment owner or other building owner would have. Which means they do have the right to restrict the use of that property.

Note: Lengthy discussion followed on such topics as; does the mobile home owner have an obligation to provide a meeting place; what about soliciting; girl scouts selling cookies.

campaigners going door to door in a mobile home park; about posters, notices, and ads, etc. What if they were invited by a group? What if you lived in a mobile home in a park and had a group in for discussions? Can their leases further restrict these activities?

Following these discussions:

Rep. Ruby: ( 3757 ) I think this an areas we should not enter; I move a 'Do Not Pass' for HB 1243.

Rep. Kelsch: I second that motion.

On a roll call vote, motion carried: 10 yeas 2 nays 2 absent.

Rep. Pollert - Vice Chairman was designated to carry HB 1243 on the floor.

END ( 3889 )



Date: February 1, 2001  
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House Transportation Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Rep. Ruby Seconded By Rep. Kelsch

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	✓		Howard Grumbo	✓	
Chet Pollert - Vice Chairman	✓		John Mahoney	A	
Al Carlson	✓		Arlo E. Schmidt	✓	
Mark A. Dosch	✓		Elwood Thorpe		✓
Kathy Hawken	✓				
Roxanne Jensen	✓				
RaeAnn G. Kelsch	✓				
Clara Sue Price		✓			
Dan Ruby	✓				
Laurel Thoreson	A				

Total (Yes) 10 No 2

Absent 2

Floor Assignment Rep. Pollert

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)  
February 2, 2001 7:27 a.m.

Module No: HR-19-2171  
Carrier: Pollert  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1243: Transportation Committee (Rep. Weisz, Chairman) recommends DO NOT PASS**  
(10 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). HB 1243 was placed on the  
Eleventh order on the calendar.

2001 TESTIMONY

HB 1243

**Testimony on House Bills 1240, 1241, 1242, & 1243  
Presented by Kenan Bullinger, Director  
Food and Lodging Division  
ND Department of Health  
House Transportation Committee  
January 25, 2001**

Mr. Chairman and members of the committee, my name is Kenan Bullinger. I am the Director of the Food and Lodging Division with the North Dakota Department of Health. Our agency has responsibility for the enforcement of the laws and regulations as set forth in NDCC 23-10 and NDAC 33-33-01 and 33-33-02, which deal with mobile home parks, trailer parks and campgrounds. I appear before you today not to take a stand for or against this proposed legislation but to offer some possible amendments to place these requirements in some other chapters of the century code where these provisions are already addressed and could possibly be better served.

Chapter 23-10 of the Century Code was established many years ago to provide various health and safety assurances for the tenants, occupants, and guests of these licensed facilities. Current requirements include licensing and inspection for such provisions as safe drinking water sources, plumbing and electrical connections meeting code, adequate storage and collection of garbage, proper lighting, fire protection, procedures for weather emergencies, proper lot spacing, and basic sanitation and maintenance of the parks. House Bills 1240, 1241, 1242, and 1243 mainly deal with issues relating to eviction notices, changes in zoning, security deposits, and rights to assemble. Again, I am not here to argue the importance of these provisions but simply propose that these be placed in other currently existing sections of the century code dealing with landlord/tenant issues. Chapter 33-06 of the North Dakota Century Code deals with eviction notices and could be amended to include provisions for tenants of mobile home parks. Section 47-16-07.1 of the North Dakota Century Code deals with security deposits and could also be amended to include language for dealing with mobile home parks. Lastly, I believe North Dakota's Constitution deals with the rights to assemble.

I believe the major emphasis as outlined in Chapter 23-10 should be to address health and safety issues in mobile home parks and campgrounds. Our staff is not trained or adequate in number to handle enforcement of the provisions mentioned in these four bills before you. I believe these may be better served in current statutes through local jurisdiction. Our department has not been asked to prepare a fiscal note for these four bills but if they would be placed in Chapter 23-10 for our monitoring, response, and enforcement, this could have some significant impact on our current resources. It is difficult for us to project the impact because our department is not currently involved with these types of landlord/tenant issues and how much time it would demand from our current inspection staff.

I would be happy to answer any questions the committee may have.

