

HOUSE COMMERCE COMMITTEE

Minutes of Meeting
1997 Regular Session
April 22, 1997

I. CALL TO ORDER

Representative John Travis, Chairman of the House Commerce Committee, called the meeting to order at 9:10 a.m. in Committee Room 1 of the State Capitol in Baton Rouge, Louisiana.

II. ROLL CALL

MEMBERS PRESENT:

Representative John Travis,
Chairman
Representative Pete Schneider,
Vice Chairman
Representative Robert Barton
Representative Dan Flavin
Representative Mickey Frith
Representative Herman Hill
Representative Michael Michot
Representative Edwin Murray
Representative Gil Pinac
Representative Tank Powell
Representative Sharon Weston
Representative Diane Winston

MEMBERS ABSENT:

Representative Arthur Morrell

III. STAFF MEMBERS PRESENT

Mike White, Attorney
Cindy Mancuso, Attorney
Sandy Painting, Secretary
Jim Haus and Ed Cailleateau, Sergeants at Arms

IV. DISCUSSION

House Bill No. 1982 by Representative Donelon

At the request of Representative Donelon, Representative Travis made a motion to defer action on House Bill No. 1982, which is relative to consumer and customer privacy. There was no objection to this motion, and action was deferred on House Bill No. 1982 by a vote of 10 yeas and

0 nays. Those voting yea were Representatives Travis, Schneider, Barton, Flavin, Frith, Hill, Michot, Murray, Pinac, and Powell.

House Bill No. 652 by Representative Holden

At the request of Representative Holden, Representative Travis made a motion to defer action on House Bill No. 652, which provides relative to hotel room rates in the greater New Orleans area during the Bayou Classic. There was no objection to this motion, and action was deferred on House Bill No. 652 by a vote of 10 yeas and 0 nays. Those voting yea were Representatives Travis, Schneider, Barton, Flavin, Frith, Hill, Michot, Murray, Pinac, and Powell.

House Bill No. 2298 by Representative Pinac

Representative Pinac appeared before the committee to present House Bill No. 2298 which would provide for the regulation of pyramid schemes.

Representative Travis offered an amendment to House Bill No. 2298, which provides that compensation does not include payment to participants including products used or consumed by participants in the plan. There was no objection and this amendment was adopted by a vote of 11 yeas and 0 nays. Those voting yea were Representatives Travis, Schneider, Barton, Flavin, Frith, Hill, Michot, Murray, Pinac, Powell, and Weston.

Representative Pinac stated that the purpose of this legislation was to define "pyramid scheme".

Mr. Joseph Mariano, Direct Selling Association, 1666 K St., Ste. 1010, Washington, D.C. (202) 293-5760, appeared before the committee in support of House Bill No. 2298. He stated that the Direct Selling Association is a national trade association which represents companies such as Mary Kay, Avon, Amway, Tupperware, and Shakley who market their products through personal explanation and demonstration in the home which is a form of multi-level marketing. He stated that pyramid schemes are plans by which people are recruited into the plan but the primary motivating factor for involvement, and ultimately compensation in the plan, is merely involvement of other people who pay money to get involved which generates the profits in the plan and not the sale of products. He stated that there are some specific features which distinguish multi-level marketing from pyramid schemes. He stated that

pyramid schemes are frauds and that promoters and participants earn money primarily from the introduction of people into the plan. He stated that pyramids always fail because it is impossible to keep recruiting enough people to have the situation continue in order to pay off individuals who have already gotten involved in the plan. He stated that multi-level marketing requires very little money, if any, to get involved and pyramid schemes typically rely on large up-front payments from people who are getting involved. He stated that sales to ultimate consumers are what drives the legitimate multi-level marketing companies and mere recruitment of people is what drives a pyramid scheme. He stated that the attorney general's office helped work to develop this language and give Louisiana a state of the art anti-pyramid law which will assist law enforcers by creating a real and enforceable standard of illegal conduct and behavior. It will assist legitimate companies in the industry by clearly outlawing pyramid schemes which masquerade as real businesses. He stated that this legislation would assist members of the public by distinguishing between legitimate opportunities and these "get rich quick" pyramid schemes.

Representative Murray asked how many other states have this law.

Mr. Mariano stated that this law was most recently adopted in the states of Texas and Oklahoma and similar law exists in the states of Kentucky, Arizona, New Mexico, and Maryland. He stated that approximately 25 states have anti-pyramid laws which are largely similar to this legislation.

Representative Schneider asked if the penalty provided in this legislation was typical of this type of criminal activity.

Mr. Mariano stated that for the most part the penalty was typical but that it varied from jurisdiction to jurisdiction. He stated that the penalty in this legislation was agreed to by the attorney general's office.

Representative Schneider made a motion to report House Bill No. 2298 with amendments, to which there was no objection. House Bill No. 2298 was reported with amendments by a vote of 9 yeas and 0 nays. Those voting yea were Representatives Travis, Schneider, Barton, Hill, Michot, Murray, Pinac, Powell, and Weston.

House Bill No. 149 by Representative Rousselle

Representative Rousselle appeared before the committee to present

House Bill No. 149, which authorizes the Plaquemines Parish governing authority to regulate operation of air boats. He stated that there was an amendment to this legislation.

Cindy Mancuso, attorney, House Commerce Committee, explained the amendment which would include the operation of air boats in Jefferson Parish.

Representative Travis made a motion to adopt the amendment described above. There was no objection and this amendment was adopted by a vote of 7 yeas and 0 nays. Those voting yea were Representatives Travis, Schneider, Barton, Hill, Murray, Powell, and Weston.

Representative Murray made a motion to report House Bill No. 149 with amendments. There was no objection, and House Bill No. 149 was reported with amendments by a vote of 7 yeas and 0 nays. Those voting yea were Representatives Travis, Schneider, Barton, Hill, Murray, Powell, and Weston.

House Bill No. 481 by Representative Doerge

Representative Doerge appeared before the committee to present House Bill No. 481 in its amended form, which would provide relative to solicitations for telephonic sales within the state of Louisiana.

Mrs. Cindy Mancuso, attorney, House Commerce Committee, explained an amendment to be offered to House Bill No. 481, which would specify that a telephonic seller is a person who causes a solicitation to occur in which either the seller or the purchaser, or both, are located in Louisiana and which meets the present law criteria.

Representative Travis made a motion to adopt the amendment described above. There was no objection and this amendment was adopted by a vote of 9 yeas and 0 nays. Those voting yea were Representatives Travis, Schneider, Barton, Flavin, Frith, Hill, Murray, Powell, and Weston.

Representative Weston made a motion to report House Bill No. 481 with amendments. There was no objection to this motion, and House Bill No. 481 was reported with amendments by a vote of 9 yeas and 0 nays. Those voting yea were Representatives Travis, Schneider, Barton, Flavin, Frith, Hill, Murray, Powell, and Weston.

House Bill No. 502 by Representative Weston

Representative Weston appeared before the committee to present House Bill No. 502, which provides for the designation of a sanctioned benevolent organization by law enforcement entities. She stated that this legislation would avoid confusion in such situations, for example as here in Louisiana where there are five organizations with the words "state police" in their name. She stated that this legislation would put all benevolent organizations under one umbrella and will eliminate such confusion.

Representative Powell made a motion to report House Bill No. 502 favorably. There was no objection to this motion, and House Bill No. 502 was reported favorably by a vote of 11 yeas and 0 nays. Those voting yeas were Representatives Travis, Schneider, Barton, Flavin, Frith, Hill, Murray, Pinac, Powell, Weston, and Winston.

House Bill No. 1602 by Representative Donelon

On behalf of Representative Donelon, Ms. Cindy Bishop, Checkmate Strategies, P. O. Box 80053, Baton Rouge, Louisiana 70898, (504) 929-6069, appeared before the committee to present House Bill No. 1602, which prohibits persons and companies performing clinical perfusion services from providing both supplies and services related to perfusion equipment.

Mr. Mike White, attorney, House Commerce Committee, explained an amendment to be offered on House Bill No. 1602. He stated that the amendment would remove the provision that a clinical perfusionist shall not refuse to use a product that has been approved by the Federal Drug Administration because he deems the product to be substandard.

Representative Travis offered the above described amendment to House Bill No. 1602, to which there was no objection. This amendment was adopted by a vote of 11 yeas and 0 nays. Those voting yeas were Representatives Travis, Schneider, Barton, Flavin, Frith, Hill, Michot, Murray, Pinac, Weston, and Winston.

Ms. Bishop stated that this legislation is a measure which promotes the highest degree of standards for patient care by prohibiting clinical perfusionists from engaging in a business practice that creates a conflict of interest. She stated that a perfusionist is a member of the health care team who is a highly skilled, trained, and educated medical technologist.

Mr. Scott Biessenberger, C.C.P., perfusionist, 105 Woodcrest Dr., Lafayette, Louisiana 70506, (318) 984-9623, appeared before the committee for informational purposes only. He stated that the purpose of this legislation was to make it unlawful for any person performing the services of a clinical perfusionist to receive compensation for the sale, to make it unlawful for the person performing the services of a clinical perfusionist as an employee or contractor to receive financial compensation, and also to make it unlawful for the contract clinical.

Representative Schneider asked what were the training requirements for a perfusionist.

Mr. Biessenberger stated that most programs today are four-year degree programs.

Mr. White explained to the committee another amendment to be offered on House Bill No. 1602, at the request of Representative Donelon. He stated that this amendment would provide that violators shall be guilty of a civil offense punishable by a fine of not less than \$1000 nor more than \$5000 per violation.

Representative Travis offered the above described amendment to House Bill No. 1602, to which there was no objection. This amendment was adopted by a vote of 12 yeas and 0 nays. Those voting yea were Representatives Travis, Schneider, Barton, Flavin, Frith, Hill, Michot, Morrell, Murray, Powell, Weston, and Winston.

Representative Powell made a motion to report House Bill No. 1602 with amendments. There was no objection to this motion, and House Bill No. 1602 was reported with amendments by a vote of 11 yeas and 0 nays. Those voting yea were Representatives Travis, Schneider, Frith, Hill, Michot, Morrell, Murray, Pinac, Powell, Weston, and Winston.

House Bill No. 1724 by Representative Wiggins

Representative Wiggins appeared before the committee to present House Bill No. 1724, which repeals certain authority of Cane River Waterway District to regulate water traffic.

Representative Morrell asked Representative Wiggins to explain the course which was required in order to use Cane River.

Representative Wiggins stated that in order to use Cane River a four-hour boating safety course was required by the Cane River Waterway District.

Representative Pinac made a motion to report House Bill No. 1724 favorably. There was no objection to this motion, and House Bill No. 1724 was reported favorably by a vote of 11 yeas and 0 nays. Those voting yeas were Representatives Travis, Schneider, Frith, Hill, Michot, Morrell, Murray, Pinac, Powell, Weston, and Winston.

House Bill No. 469 by Representative Green

Representative Green appeared before the committee to present House Bill No. 469, which would prohibit a bank from charging a beneficiary a fee for cashing a check.

Representative Murray made a motion to report House Bill No. 469 favorably. There was no objection to this motion, and House Bill No. 469 was reported favorably by a vote of 11 yeas and 0 nays. Those voting yeas were Representatives Travis, Schneider, Flavin, Frith, Hill, Michot, Morrell, Murray, Pinac, Powell, and Weston.

House Bill No. 1607 by Representative Green

Representative Green appeared before the committee to present House Bill No. 1607, which would provide relative to deceptive practices in charitable solicitations.

Mr. Louis Gruntz, deputy parish attorney, Jefferson Parish, 1221 Elmwood Park Blvd., Harahan, Louisiana 70123, (504) 736-6300, appeared before the committee in support of House Bill No. 1607. He stated that this legislation will provide the prohibition against nonprofit groups from using the names of a public park facility along with the words "fund, foundation, etc." in order to solicit funds from the public without some sort of cooperative endeavor agreement with the governing authority of the public park and also an agreement that the funds would be used for that facility.

There was no further discussion on House Bill No. 1607.

Representative Frith made a motion to report House Bill No. 1607 favorably. There was no objection to this motion, and House Bill No. 1607 was reported favorably by a vote of 10 yeas and 0 nays. Those voting yeas were Representatives Travis, Schneider, Flavin, Frith, Hill, Michot, Morrell,

Pinac, Powell, and Weston.

House Bill No. 2262 by Representative Willard-Lewis

Representative Willard-Lewis appeared before the committee to present House Bill No. 2262, which would prohibit the transferring of telephone long distance carriers without written authorization of the customer.

Representative Travis offered a set of amendments to House Bill No. 2262, which would prohibit the transferring of a long distance customer to another long distance service provider until the order has first been confirmed by one of the specified procedures. There was no objection to this amendment and it was adopted by a vote of 8 yeas and 0 nays. Those voting yea were Representatives Travis, Flavin, Frith, Hill, Michot, Morrell, Pinac, and Weston.

Representative Travis offered another amendment to House Bill No. 2262 which would require a certain written form prescribed by the Public Service Commission to be submitted for the transferring of telephone long distance carriers. There was no objection and this amendment was adopted by a vote of 9 yeas and 0 nays. Those voting yea were Representatives Travis, Frith, Hill, Michot, Morrell, Murray, Pinac, Weston, and Winston.

Representative Morrell made a motion to report House Bill No. 2262 with amendments. There was no objection to this motion, and House Bill No. 2262 was reported with amendments by a vote of 8 yeas and 0 nays. Those voting yea were Representatives Travis, Frith, Hill, Michot, Morrell, Murray, Pinac, and Weston.

House Bill No. 782 by Representative Guillory

Representative Travis, at the request of Representative Guillory, made a motion to defer action on House Bill No. 782, which regulates certain aspects of the videotape rental business. There was no objection and action was deferred on House Bill No. 782 by a vote of 8 yeas and 0 nays. Those voting yea were Representatives Travis, Frith, Hill, Michot, Morrell, Murray, Pinac, and Weston.

House Bill No. 2255 by Representative Travis

Representative Travis appeared before the committee to present House Bill No. 2255, which is relative to disclosure of compensation by nonprofit

mutual associations.

Mr. Jim Brown, commissioner, Department of Insurance, Baton Rouge, Louisiana, appeared before the committee for informational purposes only. He stated he did not see the need for this legislation.

There was no further discussion on House Bill No. 2255.

Representation Travis made a motion to defer action on House Bill No. 2255. There was no objection and action was deferred on House Bill No. 2255 by a vote of 8 yeas and 0 nays. Those voting yeas were Representatives Travis, Frith, Hill, Michot, Morrell, Murray, Pinac, and Weston.

House Bill No. 1082 by Representative Travis

Representative Travis appeared before the committee to present House Bill No. 1082, which is relative to extended warranty policies.

Representative Travis offered a technical amendment to House Bill No. 1082, which would change the cite on page 6, line 3, from 32:775 to 32:1255. There was no objection and this amendment was adopted by a vote of 9 yeas and 0 nays. Those voting yeas were Representatives Travis, Flavin, Hill, Michot, Morrell, Murray, Pinac, Powell, and Weston.

Representative Travis asked Mr. Jim Brown to explain the regulatory authority that the Department of Insurance would have over extended warranties.

Mr. Jim Brown, commissioner, Department of Insurance, Baton Rouge, Louisiana, appeared before the committee for informational purposes only. He stated that extended warranties would fall under the category of mechanical breakdown insurers. He stated that the Department of Insurance does not approve these types of policies. He stated that he was willing to accept the authority to enforce the right of disclosure.

Representative Travis agreed with Mr. Brown to put this legislation on hold until they had a chance to review the legislation together and work out an agreement regarding regulatory authority.

Representative Travis made a motion to defer action on House Bill No. 1082. There was no objection and action was deferred on House Bill No.

1082 by a vote of 12 yeas and 0 nays. Those voting yea were Representatives Travis, Schneider, Barton, Frith, Hill, Michot, Morrell, Murray, Pinac, Powell, Weston, and Winston.

House Bill No. 372 by Representative Morrell

Representative Morrell appeared before the committee to present House Bill No. 372, which prohibits the charging of a service fee for sending a consumer a billing statement.

He stated that this legislation was prompted due to his personal experience of receiving a regular billing statement and being charged by the company for the sending of the statement.

Representative Travis stated that he was not aware of this type of incident but agreed that a customer should not be charged for receiving a regular billing statement.

There was no further discussion on House Bill No. 372.

Representative Frith made a motion to report House Bill No. 372 favorably. There was no objection to this motion, and House Bill No. 372 was reported favorably by a vote of 13 yeas and 0 nays. Those voting yea were Representatives Travis, Schneider, Barton, Flavin, Frith, Hill, Michot, Morrell, Murray, Pinac, Powell, Weston, and Winston.

House Bill No. 2108 by Representative Donelon

Ms. Lucy L. McCann, Louisiana Cemetery Board, 2901 Ridgelake Dr., Ste. 101, Metairie, Louisiana, 70002, (504) 838-5267, appeared before the committee on behalf of Representative Donelon to present House Bill No. 2108, which makes various revisions to the provisions regulating cemeteries. She stated that this legislation provided for the definition of a scattering garden and that a scattering garden will be considered a cemetery. She also stated that this legislation provides for late fees when a cemetery renewal application is not received in a timely manner. She stated that these changes were addressed by the cemetery association and there were no objections to their knowledge.

Representative Murray asked if individual undertakers had any input in this legislation.

Mr. Gerald Melancon, Louisiana Cemetery Association, P. O. Box 100,

Carencro, Louisiana 70520, (318) 896-3232, appeared before the committee in support of House Bill No. 2108. He stated that this legislation had been approved by the Louisiana Cemetery Association.

Representative Powell asked that the term "scattering garden" be explained.

Mr. Melancon stated that a scattering garden was a designated portion of a cemetery for scattering cremains.

Representative Barton asked Ms. McCann to explain the exemption for obtaining a license.

Ms. McCann stated that under current law a cemetery is exempt from obtaining a license under Chapter 2 of the Louisiana Cemetery Act if they charge \$25 or less for a cemetery space. She stated that the new legislation would expand the charge to \$300 and also refer to it as a maintenance fee.

Representative Schneider asked Ms. McCann how the cemetery board was funded.

Ms. McCann stated that the cemetery board had a self-generated budget of \$130,000 to \$150,000.

Representative Weston asked if this legislation had been addressed with funeral directors.

Ms. McCann stated that this legislation had been discussed with the funeral directors.

Representative Winston asked if the cemetery authority had absorbed the costs of examination fees in the past.

Ms. McCann stated that the cemetery board has never charged the cemetery authority for examinations but same is provided in current law.

Representative Michot made a motion to report House Bill No. 2108 favorably. There was no objection to this motion, and House Bill No. 2108 was reported favorably by a vote of 10 yeas and 0 nays. Those voting yeas were Representatives Schneider, Barton, Hill, Michot, Morrell, Murray, Pinac, Powell, Weston, and Winston.

V. OTHER BUSINESS

There was no other business discussed.

VI. ANNOUNCEMENTS

There were no announcements.

VII. ADJOURNMENT

There being no further business, the meeting was adjourned at 11:00 a.m.

Respectfully submitted,

John Travis, Chairman

Date Approved: _____