

April 10, 1981

LB 483

SENATOR HOAGLAND: Mr. Speaker and colleagues, I would like to rise in support of Senator Chambers' and Senator Maresh's amendment. I think it is a good one. As you know, we lawyers by virtue of our profession are constantly trying to weigh the balances in these kinds of damage claims and the interest between proprietors in this case and customers and so these considerations run through our minds all the time as part of our profession and I have not had the opportunity to hear Senator Cullan speak on this issue but I would guess, based on his law school education, he concurs that this is a good amendment and that this is an appropriate public policy decision to make, that we are going to impose liability on bar owners if they want to let these bucking broncos run loose inside their establishment. Now I have suggested to Senator Chambers that the following language be added to his amendment to tighten it up and clarify the intent and he is still considering whether or not to add this and I would call this to Senator Maresh's attention as well. I would suggest that we add a sentence to that amendment saying, "contributory negligence, assumption of the risk and the like shall not be a defense in any such action," to make it absolutely clear that the liability is to rest with the bar owner. So again, I support it and I would encourage the addition of this language to make it even clearer than it is right now. Thank you, Mr. Speaker.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, perhaps we are looking at one of those situations where the appropriate question would be, "Am I my brother and my sister's keeper?" Now the first time that question was asked was in a set of circumstances where an individual had disappeared mysteriously and when the whereabouts of that individual was inquired after this is the question that was asked: "Am I my brother's keeper?" Well there are sets of circumstances where we must become our brother and our sister's keeper. This is why Senator Higgins was pushing for an amendment to a bill the other day which would say that when people are intoxicated they can be taken off the streets despite the right that they have to drink, despite the right they have to use the public street and quasi public facilities, they, by consuming certain substances, can put themselves in a position where they have limited ability to look out for their welfare and under those circumstances they can be handled in a way by the state, that a person not under such influence could not be handled. So what we are saying especially in connection with liquor establishments and, by the way, with the inclusion of the language, "retailer's license issued pursuant to Chapter 53, Section 1," that is the Liquor Control Act so