

April 13, 1982

LB 547

CLERK: Mr. President, Senator Chambers would move to reconsider the previous vote.

SENATOR CLARK: All right, Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I'm going to try to be as brief as I can. I don't think...I hate to say this but I don't think you all understand what is involved in this motion. I don't think you understand what is involved in this bill. What you are saying, if you leave Chapter 16 in is that a person can knowingly do these things and not be illegal; can use false or misleading advertising; can falsely say that the food he is presenting is that of another; can create an intentional likelihood of misunderstanding as to the source, quality and other aspects of the food. The advertisement of the food can be deceptive as far as the origin, the quality, the characteristics, the ingredients, benefits, uses...all of these things. The dispenser can know all of these things are false and do them and not be illegal. If you leave the law as it is those things are illegal. I don't know what got into Senator Schmit and I don't know what his assistant told him but they are misleading you. If you think that by putting the term "intent" in place of "actual notice", knowledge, is helping the public, I've got to repeat it one more time. Then, Mr. Chairman, I'll let it go. Everything prohibited by the law right now is prohibited if these things are known to be the case by the distributor or handler of this food. What you are doing is saying that he can actually know it and do it and it is still not illegal. You can't prove a specific intent in the cases that we are talking about here so he or she is scot free. If you send stinking meat, if you send decaying produce from a suburban store to a store in a poor neighborhood the one who owns the store can say, sure I know it's bad but how is it going to deceive anybody? Anybody who can look at it or smell it can see it is bad. But the idea is that people in poor neighborhoods often have no choice about what they buy. This law originally was a consumer protection law. Senator Schmit is making it a destroyer of the rights and interests of those people who are not in a position to protect themselves. That is why I made the motion to reconsider. If understanding these things you still want to do what Senator Schmit is asking you to do, I've done all that is in my power to stop it.

SENATOR CLARK: Senator Schmit, did you want to talk on it?

SENATOR SCHMIT: I just want to say, Mr. President, that in my amendment we strike the language "knowingly" and retain the language "with intent to deceive," and I had hoped that

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