

IN THE SENATE

MARCH 28, 1991

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED.

APRIL 5, 1991

FREE CONFERENCE COMMITTEE APPOINTED.

IN THE HOUSE

APRIL 6, 1991

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 10, 1991

FREE CONFERENCE COMMITTEE REPORTED.

IN THE HOUSE

APRIL 13, 1991

FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 17, 1991

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

APRIL 18, 1991

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

APRIL 19, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 251
 2 INTRODUCED BY [Signature]
 3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT
 6 OF JUSTICE TO IMPOSE A SUSPENSION WITHOUT PAY FOR UP TO 10
 7 DAYS ON HIGHWAY PATROL OFFICERS WITHOUT REQUIRING A
 8 PRESUSPENSION HEARING; AUTHORIZING SUSPENSION WITHOUT PAY
 9 AND DEMOTION PENDING THE HIGHWAY PATROL DISCIPLINARY HEARING
 10 PROCESS; ALLOWING 30 DAYS FOR A DECISION IN DISCIPLINARY
 11 HEARINGS; REQUIRING REPRESENTATION AT THE OFFICER'S EXPENSE
 12 AT A HEARING; PROVIDING FOR WAIVER OF A HEARING; AMENDING
 13 SECTIONS 44-1-701, 44-1-705, 44-1-803, 44-1-804, 44-1-806,
 14 44-1-901, 44-1-902, AND 44-1-903, MCA; AND REPEALING SECTION
 15 44-1-807, MCA."

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 NEW SECTION. Section 1. Waiver. A patrol officer may
 19 waive in writing his rights under Title 44, parts 7 and 8,
 20 and accept discipline considered appropriate by the
 21 department of justice.

22 Section 2. Section 44-1-701, MCA, is amended to read:

23 "44-1-701. Authority of department of justice to
 24 suspend, demote, or reprimand. When the department of
 25 justice has cause to believe that any member of the highway

1 patrol has violated any of the grounds for suspension,
 2 demotion, or discharge ~~or his conduct has warranted~~
 3 ~~reprimanding, it may suspend, demote, or reprimand the~~
 4 ~~member~~ impose a suspension without pay for up to 10 days
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8 "44-1-705. Suspension pending hearing and decision. If
 9 the department of justice orders a hearing, the chief may
 10 suspend without pay or demote such patrol officer pending
 11 the rendition of the decision made in such case."

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 14 officer shall be entitled to be confronted with the
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 17 testimony in his own behalf. He shall be entitled to be
 18 represented by counsel, at his own expense, at such
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20 Section 5. Section 44-1-804, MCA, is amended to read:

21 "44-1-804. Rendering and filing of decision. The
 22 department of justice shall, within ±5 30 days after such
 23 hearing or within the additional time to which the accused
 24 patrol officer consents, render its decision in writing and
 25 file same in its office, with the chief, and with the patrol

1 officer accused."

2 **Section 6.** Section 44-1-806, MCA, is amended to read:

3 "44-1-806. **Disciplinary action.** If after a hearing the
4 department of justice finds that any charge or charges made
5 against the patrol officer are true, it may punish the
6 offending party by ~~reprimand,~~ suspension without pay,
7 demotion, or discharge."

8 **Section 7.** Section 44-1-901, MCA, is amended to read:

9 "44-1-901. **Right to appeal.** (1) Any patrol officer who
10 is suspended, demoted, or discharged has a right of appeal
11 to the district court of Lewis and Clark County from a
12 decision issued under 44-1-804.

13 (2) The appeal must be made within 10 days after the
14 decision ~~or-determination~~ of the department of justice."

15 **Section 8.** Section 44-1-902, MCA, is amended to read:

16 "44-1-902. **Action by court.** The district court shall
17 review such decision or determination in ~~a-summary-manner~~
18 ~~and-render-its-decision-upon-such-appeal-within-90-days-from~~
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20 2-4-704."

21 **Section 9.** Section 44-1-903, MCA, is amended to read:

22 "44-1-903. **Reinstatement and backpay** upon reversal or
23 modification. If the decision or determination of the
24 department of justice is finally reversed or modified by the
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6 NEW SECTION. **Section 10.** Codification instruction.
7 [Section 1] is intended to be codified as an integral part
8 of Title 44, chapter 1, part 9, and the provisions of Title
9 44, chapter 1, part 9, apply to [section 1].

10 NEW SECTION. **Section 11.** Repealer. Section 44-1-807,
11 MCA, is repealed.

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APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

SENATE BILL NO. 251

INTRODUCED BY GAGE

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF JUSTICE TO IMPOSE A SUSPENSION WITHOUT PAY FOR UP TO 10 DAYS ON HIGHWAY PATROL OFFICERS WITHOUT REQUIRING A PRESUSPENSION HEARING; ~~AUTHORIZING--SUSPENSION--WITHOUT--PAY AND--DEMOTION--PENDING--THE--HIGHWAY--PATROL--DISCIPLINARY--HEARING~~ PROCESS; ALLOWING 30 DAYS FOR A DECISION IN DISCIPLINARY HEARINGS; REQUIRING REPRESENTATION AT THE OFFICER'S EXPENSE AT A HEARING; PROVIDING FOR WAIVER OF A HEARING; AND AMENDING SECTIONS 44-1-701, ~~44-1-705~~, 44-1-803, 44-1-804, 44-1-806, ~~44-1-901~~ AND 44-1-902, ~~AND 44-1-903~~, MCA, ~~AND~~ ~~REPEALING SECTION 44-1-807~~, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Waiver. A patrol officer may waive in writing his rights under Title 44, parts 7 and 8, and accept discipline considered appropriate by the department of justice.

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patrol has violated any of the grounds for suspension, demotion, or discharge ~~or his conduct has warranted reprimanding~~, it may ~~suspend, demote, or reprimand~~ the member impose a suspension without pay for up to 10 days without filing charges and conducting a hearing under part 8."

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-End-

HOUSE STANDING COMMITTEE REPORT

March 19, 1991

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that Senate Bill 251 (third reading copy -- blue) be concurred in as amended .

Signed: 
Jan Brown, Chairman

Carried by: Rep. Cocchiarella

And, that such amendments read:

1. Page 3, line 17.

Following: "determination"

Insert: "."

Strike: "in"

2. Page 3, lines 19 and 20.

Strike: "accordance with 2-4-704"

Insert: "The district court is not limited by the scope of review set forth in 2-4-704 and may hold a new hearing"

HOUSE
SB 251

SENATE BILL NO. 251

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Free Conference Committee
on Senate Bill No. 251
Report No. 1, April 10, 1991

Page 1 of 1

Mr. President and Mr. Speaker:

We, your Free Conference Committee on Senate Bill No. 251, met and recommend that Senate Bill No. 251 (reference copy as amended - salmon) be amended as follows:


1. Title, line 13.
Following: "44-1-804,"
Insert: "AND"

2. Title, line 14.
Strike: "AND 44-1-902"
Following: "~~44-1-903~~"
Strike: ", "

3. Page 3, lines 15 through 21.
Following: line 14
Strike: section 6 in its entirety
Renumber: subsequent section

And that this Free Conference Committee report be adopted.

For the Senate:



Bob Pipinich, Chair



Delwyn Gage



Bob Hockett

For the House:



Vicki Cocchiarella, Chair



Jim Southworth



Robert Clark

4-10-91
Amd. Coord.
SB 4/10 1:30
Sec. of Senate

ADOPT
REJECT

FCC#1
SB251

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