

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS & INDUSTRY**

Call to Order: By Chairman J.D. Lynch, on February 4, 1991, at 10:00 a.m.

ROLL CALL

Members Present:

J.D. Lynch, Chairman (D)
John Jr. Kennedy, Vice Chairman (D)
Betty Bruski (D)
Eve Franklin (D)
Delwyn Gage (R)
Thomas Hager (R)
Jerry Noble (R)
Gene Thayer (R)
Bob Williams (D)

Members Excused: None

Staff Present: Bart Campbell (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON SENATE BILL 220

Presentation and Opening Statement by Sponsor:

Senator Blaylock, sponsor of the bill, stated that this is mainly a cleanup bill of a lot of language that is in our codes at this time.

Proponents' Testimony:

Pat Keim, director of government affairs for BNRR, spoke in favor of the bill (See Exhibit 6, Exhibit 1).

Les Graham, from the department of livestock, spoke as neither an proponent nor an opponent. He stated that the department of livestock was involved with the language of the

bill.

Fred Simpson, with the Montana rail link, stated that essentially this bill is an effort to modernize the language in the terms of the statute.

Opponents' Testimony:

James T. Mular, chairman of the Montana rail labor legislative council and representing the TCU division, asked if there was a study really made other than what the Burlington Northern and Montana rail link wants. There should be a study conducted for all of the statutes relating to railroads. We have forgotten that the railways only sell service, and we're trying to strip off a little bit of that service in this legislation. Exhibit 2 relates to ticket provisions of the repeals that the Burlington Northern receive. This document is a communication between Amtrak and Burlington Northern. The public ought to be involved with this bill, the public service corporation should not speak for the public. It's all in the public interest without the public actually knowing it. Referring to the bill of lading section 215. Where will a person get a bill of lading, it says upon request but it doesn't say from whom or where. The statute that is being revised is rather silent on that. Exhibit 3 states that a customer billing is to be centralized near Fort Worth. Customer billing includes all revenue charges, all charges related to hauling freight. All functions will eventually go to Fort Worth. With respect to defining employees that is defined by the safety section, we would request that if this committee should pass the legislation, to include the car repairmen and also the shopcrafts. The council for the proponents cease to define alcohol and drug substance by amending that particular statute. Exhibit 4 includes sections 61-8-401 of the MCA, the railroad employees feel that this is just a harassment tactic.

Questions From Committee Members:

Senator Thayer asked about the penalty for a misdemeanor for intoxication on page 14, section 17. There is nothing there that gives a person the right to do any additional testing.

Leo Barry, representing Burlington Northern Railroad, stated that this section is out of date. It only references intoxication which isn't a term that is generally used in the codes.

Senator Thayer asked the responsibility that Burlington Northern has in terms of providing passenger service and its relationship with Amtrak. Does Burlington Northern just supply the rails that Amtrak run on, how does the railroad become involved anymore with passenger service.

Leo Barry responded by saying that the Burlington Northern really isn't involved with passenger service, it is handled by Amtrak and they are the only passenger service in the state.

Senator Williams asked in Mr. Keim's testimony if he said he worked with the public service commission on putting this together.

Pat Keim replied that was correct.

Senator Williams asked Mr. Mular if he said in his testimony

he felt that the public should have more input.

James Mular stated that was correct. He feels that this is a public interest matter as opposed to a public service matter.

Senator Thayer asked if there was anyone from the public service division, and what they thought about the bill.

Wayne Buds, Montana public service commission, stated that they had no problem with the bill as it is written.

Senator Gage commented that he thinks that the committee could strike the language in the bill, page 5 line 2, and page 4 line 24 to make it say all railroad employees, so they won't be specifically listing anyone.

James Mular responded by saying that it is a rule making process, and one craftsman may have different needs.

Senator Lynch asked if any contract any services.

James Mular responded that yes they do.

Senator Gage stated that he understands Mr. Mular's concerns he might say unless it's all of the employees, but only inspects a couple of employees. Perhaps we could say individually and collectively.

James Mular stated that it would be putting an additional burden on the commission to write specific procedure rules dealing with that particular craft.

Closing by Sponsor:

Senator Blaylock closed by saying that originally when this bill was drafted, the drafters forgot to put in a section. New section 16 refers specifically to the repair of the cars (See Exhibit 5).

Senator Lynch stated that they won't take action today.

HEARING ON HOUSE BILL 181

Presentation and Opening Statement by Sponsor:

Representative Don Larson, sponsor of the bill, stated that this bill is a simple bill with no teeth. It is a consumer protection issue, that simply requires the seller of property to notify the buyer of the property that there is or is not a smoke detector. The purpose of this bill is to encourage the installation of smoke detectors in private residences.

Proponents' Testimony:

James Aloftus, president of the Montana fire district association, spoke in favor of the bill. This bill encourages the use of smoke detectors and saves lives.

Richard Seddon, secretary treasurer of the Montana state fireman's association, spoke in favor of the bill. This is a start, there is no enforcement on this bill.

Henry E. Lotir, lobbyist for the Montana state volunteer

Senator Gage asked if the title should include "or other buyer protection advises".

Bart Campbell responded that it does say smoke detection devices. The word devices is broad enough.

Senator Thayer was curious if any of the realtors have any language that talk about smoke detectors, or this going to require everybody in the business to redo all of their forms to comply with the provisions of this.

Senator Lynch stated that some do, some don't.

Tom Hopgood stated that he didn't think that the forms for residential sales have it on there. The association has a committee that meets on a quarterly basis that deals with forms.

Senator Noble stated that they could have a rubber stamp that stated that a smoke detector was present, it would be as simple as that.

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

HB 181 passed unanimously by a roll call vote.

EXECUTIVE ACTION ON SENATE BILL 137

Motion:

None

Discussion:

None

Amendments, Discussion, and Votes:

Tom Harrison, on behalf of the society for CPA, submitted an amendment to SB 137 (See Exhibit 7). It is actually an amendment to the amendment that Robyn Young provided before. The previous amendment the change that was proposed was taking the banks, savings and loans, lawyers, accountants, etc. out of an exception to the bill. It made them an exemption to registration. This amendment now (Exhibit 7) reverses that and puts them back exempted from the definition of what an investment advisor is. The additional amendment is to strike the words underlined on Exhibit 7. and to insert language also.

Robyn Young stated that the department does not object to Mr. Harrison's additional proposed amendments. They have reached an agreement as far as registration verses exclusions. What is left in the act is the important consumer protection sections of the act.

Senator Thayer asked what affect does it have on the outside

fire fighter association, spoke in favor of the bill. We can't get enough of smoke detectors, they do work, and they save lives.

Bruce Suemam, with the Missoula rural fire district, spoke in favor of the bill by saying that they too have had fatal fires that have involved fatalities of small children. They encourage the passage of this bill.

Opponents' Testimony:

Tom Hopgood, representing the Montana association of realtors, spoke in opposition of the bill. He stated that he is opposing what this bill could lead to. The concern of the association is that the residents could incorrectly or falsely stating that there is a smoke detector and there is not. If the fire destroys private property then they could be sued.

Questions From Committee Members:

Senator Williams asked if there has been any cases of people suing the manufacturers of smoke detectors.

Tom Hopgood stated that he is not aware of any cases.

Senator Kennedy asked doesn't the present listing for real estate include whether there are smoke detectors or not.

Tom Hopgood stated that there are various forms used by various agencies. He wouldn't be surprised if there was a space on it for the fire alarms, but he can't say for sure.

Senator Noble stated that last session they passed a bill that had something to do with the regulation of smoke alarms.

Tom Hopgood stated that he was there, and remembers that bill well. It had to do with tenants and rental units only.

Closing by Sponsor:

Representative Don Larson closed by saying that Senator Tom Hager could carry this bill. The bill states that there should be written notice in the buyer/seller agreement at the time of the sell. It specifies that neither the seller nor the agent is liable in a civil action for failure to comply. There should be written notice in the buyer/seller agreement, or at the time of the sale. It doesn't fall solely on the responsibility of the realtors.

EXECUTIVE ACTION ON HOUSE BILL 181

Motion:

Senator Hager moved that HB 181 be concurred in.

Discussion:

solicitors, people phoning into Montana.

Robyn Young stated that it has some effect on them because they have added a civil liability. Still the largest portion of the out of state solicitors are dealing with the sale of securities, not investment advisors.

Senator Noble asked Tom Harrison if the amendments discussed were acceptable to his organization.

Tom Harrison replied yes.

Senator Noble wondered Bruce McKenzie had objections to a lot of sections to the bill.

Tom Harrison stated that he did not meet separately, and has not seen him since the day of the meeting. He cannot address his concerns.

Senator Noble had written down some things that Bruce says in his testimony, he stated: that this would create more confusion and parts of it would make Montana the first and only state with some of the regulatory burdens.

Robyn Young stated that specifically deals with the changing of these individual professional from an exclusion of the definition to the exemption of registration.

Senator Lynch stated that executive action will officially be scheduled for SB 137 and SB 176 on Wednesday, February 6, 1991. So everyone involved will know, it will be posted.

Recommendation and Vote:

None

EXECUTIVE ACTION ON SENATE BILL 163

Motion:

Senator Thayer moved that the SB 163 be amended.

Discussion:

None

Amendments, Discussion, and Votes:

Senator Thayer stated that after the hearing on this bill, he had some discussion with Senator Harp. The committee talked about a possibility of a committee bill, and they also talked about this bill being amended. Senator Harp's concern was that it was getting a little late in the session and a committee bill might not make it in time for transmittal. He wanted to offer an amendment to the committee (See Exhibit 8).

Senator Lynch stated as he understands the amendment, this would only apply to RV's, so they have a separate way of being treated. According to the definition from the proponents a recreational vehicle includes truck campers.

Mona Jamison stated that was included, but that was an

error. Truck campers are not included in Montana.

Senator Franklin stated that she is concerned about the one year. They will not be consistent with the other vehicles involved. It is a nice thought to compromise, but she's not sure it would make anybody happy.

Senator Lynch stated that you are losing by putting the amendment into this bill, the committee is losing its choice to whether they want to kill the bill or not. You make an exception for one group as opposed to the other groups involved in the same situation. He doesn't see any lack of RV's for sale in the state of Montana.

Senator Thayer stated that Senator Harp has made an honest effort to call to the committee's attention a problem that does exist. Legislation is the art of compromise sometimes. If this motion fails, he would try a similar motion for two years instead of one.

The motion of Senator Thayer to amend SB 163 failed by roll call vote 7 to 2 votes.

Motion:

Senator Kennedy moved that SB 163 do pass.

Senator Thayer made a substitute motion to amend SB 163 from one year to two years.

Amendments, Discussion, and Votes:

Senator Franklin stated again that she would oppose the two year amendment, because it still isn't consistent with the others.

The motion to amend SB 163 failed by roll call vote 6 to 3 votes.

The motion to pass SB 163 failed by roll call vote 8 to 1 votes.

Motion:

Senator Franklin made a motion to do not pass SB 163.

Amendments, Discussion, and Votes:

The motion passed 8 to 1 votes by a reverse roll call vote.

Recommendation and Vote:

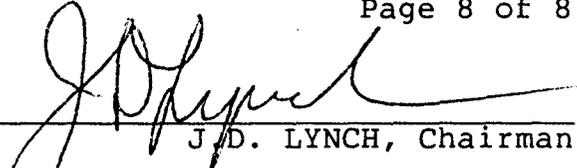
ADJOURNMENT

Adjournment At: 11:20 a.m.

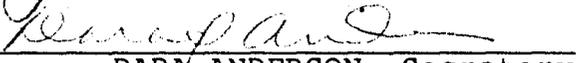
SENATE BUSINESS & INDUSTRY COMMITTEE

February 4, 1991

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J.D. LYNCH, Chairman



DARA ANDERSON, Secretary

JDL/dia

ROLL CALL

Business & Industry COMMITTEE

DATE 2/4/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
Senator Bruski	X		
Senator Franklin	X		
Senator Gage	Y		
Senator Hager	X		
Senator Noble	X		
Senator Thayer	X		
Senator Williams	X		
Senator Kennedy	X		
Senator Lynch	X		

Each day attach to minutes.

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 5 day of Feb, 1991.

Name: Tom Hopgood

Address: _____

Telephone Number: _____

Representing whom?

Mt. Assoc. Realtors

Appearing on which proposal?

Do you: Support? _____ Amend? _____ Oppose?

Comments:

Oppose changes to bill in future
sessions to impose liability

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 2/4/91 Bill No. HB 181 Time 10:00

NAME	YES	NO
Senator Bruski	✓	
Senator Franklin	✓	
Senator Gage	X	
Senator Hager	X	
Senator Noble	X	
Senator Thayer	X	
Senator Williams	X	
Senator Kennedy	X	
Senator Lynch	✓	

Dara Anderson
Secretary

JD Lynch
Chairman

Motion: HB 181 BE CONCURRED IN.

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 2/4/91 Bill No. SB163 Time 10:00

NAME	YES	NO
Senator Bruski		✓
Senator Franklin		✓
Senator Gage		X
Senator Hager	X	
Senator Noble		X
Senator Thayer	X	
Senator Williams	X	
Senator Kennedy		X
Senator Lynch		X

Dara Anderson
Secretary

JD Lynch
Chairman

SUBSTITUTE MOTION
THAYER
Motion: TO AMEND FROM 1 YR TO 2 YEARS
FAILS

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 2/4/91 Bill No. SB163 Time 10:00

NAME	YES	NO
Senator Bruski		X
Senator Franklin		X
Senator Gage		X
Senator Hager		X
Senator Noble		X
Senator Thayer		X
Senator Williams		X
Senator Kennedy	X	
Senator Lynch		X

Dara Anderson
Secretary

JD Lynch
Chairman

Motion: (Kennedy) DO PASS -

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 2/4/91 Bill No. SB163 Time 10:00

NAME	YES	NO
Senator Bruski	X	
Senator Franklin	X	
Senator Gage	X	
Senator Hager	X	
Senator Noble	X	
Senator Thayer	X	
Senator Williams	X	
Senator Kennedy		X
Senator Lynch	X	

Dara Anderson
Secretary

JD Lynch
Chairman

Franklin
Motion: Do Not Pass

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 2/4/91 Bill No. _____ Time 10:00

NAME	YES	NO
Senator Bruski	X	
Senator Franklin	X	
Senator Gage	X	
Senator Hager	X	
Senator Noble	X	
Senator Thayer		X
Senator Williams	X	
Senator Kennedy	X	
Senator Lynch	X	

Dara Anderson
Secretary

JD Lynch
Chairman

Motion: Gage CPA COMMITTEE BILL CPA CONFIDENTIALITY

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 2/4/91 Bill No. SB163 Time 10:00

NAME	YES	NO
Senator Bruski		X
Senator Franklin		X
Senator Gage		X
Senator Hager	X	
Senator Noble		X
Senator Thayer	X	
Senator Williams		X
Senator Kennedy		X
Senator Lynch		X

Dara Anderson
Secretary

JD Lynch
Chairman

Motion: THE AMENDS ON SB163

69-14-118. Maintenance of stations where several rail lines come together. (1) Whenever the line of one railroad or railway shall cross, intersect, or parallel (overhead, at grade, or otherwise) the railroad or railway of another company or corporation, the commission shall have power and authority, in addition to all other powers hereafter vested in said commission, after notice and hearing, to order and compel the installation of suitable platforms and station houses for the convenience of passengers desiring to transfer from one road to the other and for the transfer of passengers, baggage, or freight, whenever the same shall be ordered by the commission. Such company or corporation shall, when so ordered by the commission, keep such passenger station warmed, lighted, and opened to the ingress and egress of all passengers a reasonable time before the arrival and after the departure of such trains as accommodate such station, carrying passengers on such railroad or railway. Said railroad or railway companies crossing, intersecting, or paralleling (overhead, at grade, or otherwise) shall stop such trains at said station house so located for the transfer of baggage, passengers, and freight, so as to furnish reasonable facilities for that character of a station when so ordered by the commission.

(2) The expense of construction and maintenance of such station house and platform shall be paid by such corporations in such proportions as they may agree, and if they fail to agree, as may be fixed by order of the commission.

History: En. Sec. 1, Ch. 105, L. 1913; re-en. Sec. 3834, R.C.M. 1921; re-en. Sec. 3834, R.C.M. 1935; amd. Sec. 20, Ch. 315, L. 1974; R.C.M. 1947, 72-156(part).

Cross-References

Authority to erect and maintain buildings,
69-14-532.

69-14-119. Connection of lines where several rail lines come together. (1) Such corporation connecting by crossing, intersecting, or paralleling (overhead, at grade, or otherwise) shall also, when so ordered, after notice and hearing by the commission, unite and connect the tracks of said several corporations so as to permit the transfer, from the tracks of said several corporations to the tracks of each other, of loaded and unloaded cars designed for transportation on both roads; provided, however, that no such union or connection shall be ordered except where and when necessary to properly serve the public.

(2) The expense of construction and maintenance shall be apportioned and the material to be used and the route to be followed shall be determined by such corporations as they may agree, and in the event that they fail to agree, as may be fixed by order of the commission; and the expense thus incurred by the commission shall be paid by the railroad or railway companies jointly interested on such basis as the commission may order.

History: En. Sec. 1, Ch. 105, L. 1913; re-en. Sec. 3834, R.C.M. 1921; re-en. Sec. 3834, R.C.M. 1935; amd. Sec. 20, Ch. 315, L. 1974; R.C.M. 1947, 72-156(part).

69-14-120. Violations of provisions relating to rails coming together. Any railroad or railway company and its officers or agents who shall refuse or fail to comply with the provisions of 69-14-118 or 69-14-119 or any order or rule relative thereto made by the commission shall be subject to a fine of not less than \$25 or more than \$50. Each day of such refusal or failure shall be deemed a separate offense and shall be subject to the penalty herein prescribed, such fine to be recovered in a civil action upon complaint of the commission in any court of competent jurisdiction.

History: En. Sec. 7, Ch. 105, L. 1913; re-en. Sec. 3841, R.C.M. 1921; re-en. Sec. 3841, R.C.M. 1935; amd. Sec. 20, Ch. 315, L. 1974; R.C.M. 1947, 72-163(part).

SENATE BUSINESS & INDUSTRY

T NO. 1

2/4/91

LL NO. SB 220

Greg Talbot LDB

TRANSPORTATION DIVISION

9401 Indian Creek Parkway
P.O. Box 29136
Overland Park, Kansas 66201-9136
Telephone (913) 661-4320

November 15, 1990

Mr. J. T. Johnston
Director Contract Administration
National Railroad Passenger Corporation
60 Massachusetts Avenue, N.E.
Washington, D. C. 20002

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 2

DATE 2/4/91

BILL NO. SB 220

Dear Mr. Johnston:

Reference my letters dated April 3 and July 20, 1990 regarding notice of intent to change job assignments and petition for closure of the "avoidable" passenger stations at Wolf Point and Malta, Montana.

This is to advise that in January 1991, Burlington Northern intends to file for petition of closure of the agency at Malta, Montana. The agency at Browning, Montana which also handles no freight business will likewise be included in petition for closure.

Since no reply has been received to date to the above referenced letters, would appreciate your involvement in insuring a response to this request before December 5, 1990. Please advise date and level of staffing, if any, Amtrak intends to provide at Malta and Browning, Montana.

Sincerely,

W. A. Peil
NRP Operations Officer

cc: L. W. Bullock
J. E. Lawrence

Jim Mulon
Bob Peneter thought you might
like to read this.
If you could call me sometime
I would like to talk to you
about this. Thank you
Robert Swingen
agent Malta work 654-1622
Home 228-4736

Our goal is to design and construct transportation and information systems that exceed our customers' expectations. Our railroad will be at the heart of the solution. We will achieve this goal by developing a culture that stimulates the productivity and efficiency of our people and leads to growth for our owners and employees.

May 1990

Vol. 3

Customer billing to be centralized near Fort Worth

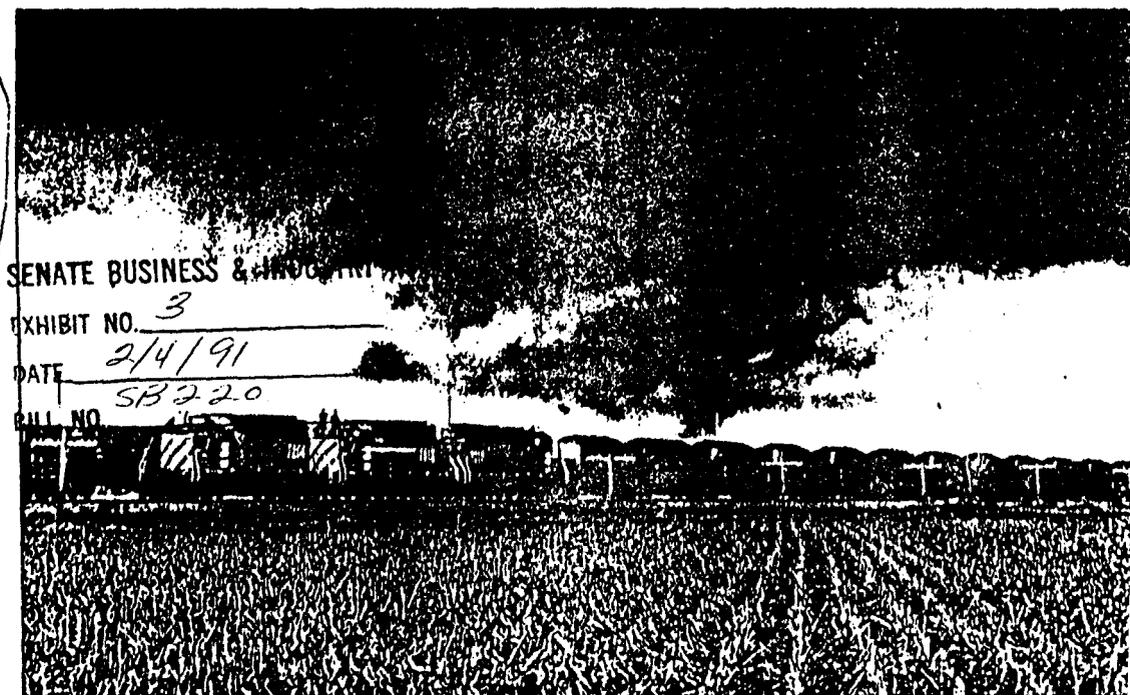
The recent creation of Burlington Northern Railroad's Customer Billing Center (CBC), which places all revenue billing operations in one location, solves a problem inherent in billing approximately \$4 billion in freight revenue annually: With so much paperwork changing hands, what can be done to ensure an accurate and timely system?

Located in North Richland Hills, Texas, a significant factor in the selection of the CBC's location was its proximity to the Marketing Department. The first phase of centralizing the revenue billing operations at the center began in April.

The first test of centralizing the revenue billing function was in St. Paul in 1988, when all intermodal hubs, except for Seattle and Chicago, were successfully consolidated. In 1989, when senior management commissioned a team of representatives from several departments to examine the company's revenue controls, the team's recommendation of the centralization of all revenue billing functions was approved. Finance and Accounting, with assistance from Operations, Marketing and Intermodal, began to assemble an implementation program for the CBC.

CBC's potential is exciting, according to Bruce Gjerde, the center's director. "The center will create a centralized environment, providing common training of personnel, and will allow us to work closely with Operations, Marketing and customers."

Vince Accardo, assistant vice president, Revenue, St. Paul, adds, "The CBC will enable us to accurately complete our revenue billing by providing consistent direction in its operation, as well as developing a quality control



There was nothing lamb-like about the weather that blew in across the Plains several weeks ago, just as spring was about to begin. Tornadoes tore through sections of the Midwest March 13, gobbling up farmhouses and wheat fields along the way, and derailed coal cars in Nebraska.

Funnel clouds hit a Lincoln-to-Alliance-bound train that was located about eight miles from Grand Island, Neb., derailling 111 hopper cars in the early evening hours. Thirty-five of the derailed cars remained upright and 12 were left lying on their sides in the accident. Estimates of the damages were around \$175,000.

The twisters then moved on and derailed a second BN train that was stopped in Waco, Neb. Of this empty coal train, 57 cars derailed, causing about \$55,000 worth of damages. Fortunately, no injuries resulted from the second hit.

Teams of employees went to both sites to rerail the cars and trains were again moving across the line the next day. While common this time of year, the local Civil Defense Department called the storm one of the worst and most dangerous type of storms in several years, perhaps within the last decade.

'Shaping BN's Future' effort nears completion of fact-gathering phase

The eight teams formed last December to study every aspect of our company have nearly completed their information-gathering mission—the second phase of the "Shaping BN's Future" planning effort. Members have made intensive analyses of strategic issues in the following areas: business economics, organizational performance, competitive position, customer behavior,

"We've been studying all facets of our business—the ways we manage and market it, and provide value to our customer. One point has already been made quite clear: A 'business as usual' strategy will not be successful in the 1990s," Howerly says. "We will continue to change as we did in the 1980s, particularly as we relate to and serve our customers."

He adds we are not seeking change

Goals, earnings

BN's board of directors set the 1990 financial performance goal for the company. To achieve the performance rating, we will reduce debt by at least \$200 million, net earnings by at least \$276 million and earnings per share by at least \$3.60 to 76.6 million shares of common stock.

These measures will be reviewed year-end and, if necessary, the company board's discretion.

BN is well on its way to meeting its 1990 goal. BN reported first quarter earnings of \$63 million, or 87 cents per share, on 76.5 million shares. The first quarter's earnings represent an extraordinary 10 percent increase over the first quarter of 1989, when earnings were \$57 million, or 75.2 million shares.

2) Any person who drops or permits to be dropped or thrown upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.

(3) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

(4) A person convicted of violating this section shall be fined not less than \$50. Except for the minimum fine of \$50 as provided in this subsection, the penalty provisions of 61-8-711 apply to this section.

History: Ea. Sec. 108, Ch. 263, L. 1955; R.C.M. 1947, 32-21-111; am. Sec. 1, Ch. 510, L. 1979.

Cross-References
Classification of offenses, 45-1-201.
Public nuisance, 45-8-111.

61-8-366. Riding on fenders or running boards prohibited. Any person driving a vehicle shall not permit passengers to ride on the fenders or running boards, nor shall any passenger ride on the fenders or running boards of a vehicle.

History: Ea. Sec. 109, Ch. 263, L. 1955; R.C.M. 1947, 32-21-112.

61-8-367. Riding in house trailers. No person or persons may occupy a house trailer while it is being moved upon a public highway unless the trailer is of a semitrailer design where some part of its own weight and that of its cargo rests upon or is carried by its towing unit through the use of a fifth-wheel type trailer hitch mounted on no less than a one-half ton rated truck.

History: Ea. Sec. 109.1, Ch. 263, L. 1955, as added by Sec. 1, Ch. 167, L. 1957; am. Sec. 1, Ch. 21, L. 1975; R.C.M. 1947, 32-21-112.1.

Cross-References

"Dolly or converter gear" defined, 61-1-113.
"House trailer" defined, 61-1-501.

61-8-368. Opening and closing vehicle doors. No person shall open any door of a motor vehicle unless and until it is reasonably safe to do so without interfering with the movement of other traffic, nor shall any person leave a door open on a side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

History: Ea. Sec. 109.2, Ch. 263, L. 1955, as added by Sec. 1, Ch. 167, L. 1957; R.C.M. 1947, 32-21-112.2; am. Sec. 7, Ch. 450, L. 1983.

61-8-369. Shooting from or across road or highway right-of-way. Except as provided in 87-2-803(4), no person shall shoot any firearm from or across the right-of-way of any state or federal highway or county road.

History: Ea. Sec. 110, Ch. 263, L. 1955; am. Sec. 1, Ch. 25, L. 1974; R.C.M. 1947, 32-21-113; am. Sec. 1, Ch. 214, L. 1985; am. Sec. 1, Ch. 416, L. 1985.

Cross-References

Creating a hazard, 45-8-113.
Hunting - general restrictions, 87-3-101.

Restrictions on use of motor vehicles while hunting, 87-3-125

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 4
DATE 2/4/91
Part 4
Driving Under Influence
of Alcohol or Drugs
BILL NO. SB 220

61-8-101. Any person under the influence of alcohol or drugs. (1) It is unlawful and punishable as provided in 61-8-72 if any person upon whose influence of

(a) alcohol to drive or be in actual physical control of a vehicle upon the ways of this state open to the public;

(b) a narcotic drug to drive or be in actual physical control of a vehicle within this state;

(c) any other drug to drive or be in actual physical control of a vehicle within this state; or

(d) alcohol and any drug to drive or be in actual physical control of a vehicle within this state.

(2) The fact that any person charged with a violation of subsection (1) is or has been entitled to use alcohol or such a drug under the laws of this state does not constitute a defense against any charge of violating subsection (1).

(3) "Under the influence" means that as a result of taking into the body alcohol, drugs, or any combination thereof, a person's ability to safely operate a motor vehicle has been diminished.

(4) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person driving or in actual physical control of a vehicle while under the influence of alcohol, the concentration of alcohol in the person's blood at the time alleged, as shown by chemical analysis of the person's blood, urine, breath, or other bodily substance shall give rise to the following presumptions:

(a) If there was at that time an alcohol concentration of 0.05 or less, it shall be presumed that the person was not under the influence of alcohol.

(b) If there was at that time an alcohol concentration in excess of 0.05 but less than 0.10, that fact shall not give rise to any presumption that the person was or was not under the influence of alcohol but such fact may be considered with other competent evidence in determining the guilt or innocence of the person.

(c) If there was at that time an alcohol concentration of 0.10 or more, it shall be presumed that the person was under the influence of alcohol. Such presumption is rebuttable.

(5) The provisions of subsection (4) do not limit the introduction of any other competent evidence bearing upon the issue of whether the person was under the influence of alcohol.

(6) Each municipality in this state is given authority to enact 61-8-406, 61-8-408, 61-8-714, 61-8-722, and subsections (1) through (5) of this section, with the word "state" in 61-8-406 and subsection (1) of this section changed to read "municipality", as an ordinance and is given jurisdiction of the enforcement of the ordinance and of the imposition of the fines and penalties therein provided.

(7) Absolute liability as provided in 45-2-104 will be imposed for a violation of this section.

History: Ea. Sec. 39, Ch. 263, L. 1955; am. Sec. 1, Ch. 194, L. 1957; am. Sec. 1, Ch. 20, L. 1957; am. Sec. 1, Ch. 109, L. 1961; am. Sec. 1, Ch. 132, L. 1971; am. Sec. 1, Ch. 28, L. 1977; am. Sec. 1, Ch. 430, L. 1977; R.C.M. 1947, 32-2142(part); am. Sec. 69, Ch. 421, L. 1979; am. Sec. 2, Ch. 659, L. 1983; am. Sec. 5, Ch. 698, L. 1983; am. Sec. 2, Ch. 99, L. 1985; am. Sec. 2, Ch. 350, L. 1987; am. Sec. 3, Ch. 464, L. 1987; am. Sec. 1, Ch. 612, L. 1987.

Cross-References

Municipal traffic and motor vehicle regulations, 7-14-4103

Responsibility - unincorporated cities and towns, 61-8-203

Negligent vehicular assault, 45-5-205.

Scheduling of dangerous drugs, Title 50, ch. 32, part 2.

City laws - violation, 53-24-106.
Definition of "vehicle", 61-1-101.

may include alcohol or drug treatment, or both, if considered necessary by the counselor conducting the program. Each counselor providing such education or treatment shall, at the commencement of the education or treatment, notify the court that the defendant has been enrolled in a course or treatment program. If the defendant fails to attend the course or the treatment program, the counselor shall notify the court of the failure.

(6) For the purpose of determining the number of convictions under this section, "conviction" means a final conviction, as defined in 45-2-101, in this state or a similar statute in another state or a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state or another state, which forfeiture has not been vacated. An offender is considered to have been previously convicted for the purposes of this section if less than 5 years have elapsed between the commission of the present offense and a previous conviction. If there has been no additional conviction for an offense under this section for a period of 5 years after a prior conviction hereunder, then such prior offense shall be expunged from the defendant's record.

History: En. Sec. 11, Ch. 698, L. 1983; amd. Sec. 2, Ch. 242, L. 1985.

Cross-References

Classification of offenses, 45-1-201.
 "Misdemeanor" defined, 45-2-101.
 Powers and duties of department — instructors and courses concerning chemical dependency program, 53-24-204.

Treatment of alcoholics and intoxicated persons, Title 53, ch. 24, part 3.
 Driver improvement program, Title 61, ch. 2, part 3.

61-8-723. Offenses committed by persons under the age of eighteen. A person under 18 years of age who is convicted of an offense under this title shall not be punished by incarceration, but shall be punished by:

(1) a fine not to exceed the fine that could be imposed on him if he were an adult, provided that such person may not be imprisoned for failure to pay such fine;

(2) revocation of his driver's license by the court or suspension of the license for a period set by the court;

(3) impoundment by a law enforcement officer designated by the court of the motor vehicle operated by the person for a period of time not exceeding 60 days if the court finds that he either owns the vehicle or is the only person who uses the vehicle; or

(4) any combination of subsections (1) through (3).

History: En. Sec. 1, Ch. 484, L. 1987.

Part 8

Commercial Motor Vehicle Safety

Part Cross-References

Licensing provisions, Title 61, ch. 5, part 1.

Revocation, suspension, or cancellation of licenses, Title 61, ch. 5, part 2.

61-8-801. Purpose. (1) The purpose of this part is to reduce the number of commercial motor vehicle accidents in Montana, to provide greater safety to the motoring public and others by establishing stringent criteria governing the operation of commercial motor vehicles, and to deny the privilege of operating commercial motor vehicles upon the public streets and highways

Amendments to Senate Bill No. 220
First Reading Copy

Requested by Senator Blaylock
For the Committee on Business and Industry

Prepared by Greg Petesch
January 30, 1991

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5
DATE 2/4/91
BILL NO. SB 220

1. Title, line 10.
Following: line 9
Insert: "69-14-921,"

2. Page 13, line 22.
Following: line 21

Insert: "Section 16. Section 69-14-921, MCA, is amended to read:

"69-14-921. Suitable cars to be furnished for shipment of grain and other commodities in bulk. (1) All ~~bexears~~ cars furnished by railroad or railway companies for the transportation of grain or other commodities in bulk ~~shall~~ must be of such a construction and in such an order as to prevent leakage when such commodities are placed or hauled ~~therein~~ in the cars. It is ~~hereby made~~ the duty of all railroad or railway companies to furnish such cars in such the required condition.

(2) Whenever ~~bexears~~ cars placed for loading grain or other commodities in bulk are found to be in such a condition that they will not afford safe transportation for such commodities, the railroad or railway company shall, upon written complaint to the agent or other person in authority by the shipper or his representative who proposes to load ~~said~~ the car or cars and within 24 hours, cause ~~said~~ the car or cars to be properly cleaned and ~~coopered~~ and put in such repair as ~~will afford to~~ allow safe transportation for the commodity to be shipped.""

Renumber: subsequent sections

TESTIMONY IN SUPPORT OF SB 0220
SUBMITTED BY
BURLINGTON NORTHERN RAILROAD

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 6
DATE 2/4/91
BILL NO. SB 220

MT. CHAIRMAN, MEMBERS OF THE COMMITTEE, FOR THE RECORD MY NAME IS PAT KEIM. I AM DIRECTOR OF GOVERNMENT AFFAIRS FOR BNRR AND I LIVE IN HELENA, MONTANA. I AM HERE TODAY TO TESTIFY AS A PROPONENT FOR SENATE BILL 220. SB 220 WOULD SEEK TO MODERNIZE THE STATUTES GOVERNING MONTANA RAILROADS. THIS BILL IS THE RESULT OF A JOINT EFFORT BY THE BNRR AND THE MONTANA PUBLIC SERVICE COMMISSION. IT IS NOT AN ATTEMPT TO EITHER REDUCE OR INCREASE THE STATE'S REGULATION OF RAILROADS IN MONTANA. IT IS RATHER A BILL DESIGNED TO ELIMINATE PROVISIONS THAT ARE NO LONGER APPROPRIATE, TO MODERNIZE THE LANGUAGE OF PROVISIONS WHERE APPROPRIATE, AND TO UPDATE THE PROVISIONS OF REGULATIONS WHERE TECHNOLOGY AND EVENTS HAVE OUTDATED CURRENT REQUIREMENTS. IT IS NOT AN ATTEMPT TO DECREASE THE RESPONSIBILITY FOR RAILROAD COMPLIANCE WITH STATE REQUIREMENTS NOR ELIMINATE STATUTES WHERE THERE ARE NEEDED. IN WORKING TOGETHER TO PREPARE THIS LEGISLATION, BOTH THE RAILROAD AND THE COMMISSION DELIBERATELY SOUGHT TO AVOID ANY CHANGES WHICH WOULD BE CONTROVERSIAL.

THE MAJOR CHANGES ARE AS FOLLOWS:

REFERENCES TO NOW NONEXISTENT ENTITIES LIKE EXPRESS CAR AND, SLEEPING CAR COMPANIES ON PAGE 2 LINE 17, AND STEAMBOATS IN THE HAND OUT OF REPEALED PROVISIONS PAGE 3, NUMBER 69-14-211 ARE DELETED. THE SIMPLE FACT IS THAT THERE ARE NO MORE EXPRESS AND SLEEPING CAR COMPANIES OPERATING ON THE RAILROAD. STEAMBOATS HAVE FOR THE MOST PART ALSO DISAPPEARED FROM MONTANA. THEREFORE REGULATING THEM IS NOT NECESSARY.

THE PROPOSED CHANGES GIVE THE COMMISSION MORE LATITUDE TO EXERCISE DISCRETION IN INVESTIGATING ACCIDENTS. THE CHANGE ON PAGE 3 LINE 13 REPLACES THE WORD "MUST" WITH THE WORD "MAY" THEREBY RELIEVING THE COMMISSION OF THE REQUIREMENT TO UNNECESSARILY INVESTIGATE ACCIDENTS. IT ALLOWS THEM THE DISCRETION TO DECIDE WHAT DOES NEED TO BE INVESTIGATED, AND FREES THEIR RESOURCES TO DO A MORE THOROUGH JOB IN INVESTIGATING THOSE ACCIDENTS.

THE BILL REMOVES REQUIREMENTS FOR UNNEEDED COMMISSION REPORTING ON PAGE 4 LINES 10 THRU 16 THEREBY ALLOWING THE COMMISSION PERSONNEL TO CONCENTRATE ON MORE IMPORTANT FUNCTIONS.

THE BILL MODERNIZES THE RULES REGARDING THE PREPARATION OF SHIPPING DOCUMENTS ON PAGE 6 LINES 4 THRU 25 TO TAKE INTO ACCOUNT ELECTRONIC DATA PROCESSING TECHNOLOGY. PRESENTLY THESE RULES REQUIRE OUTDATED METHODS OF PREPARING AND HANDLING THESE DOCUMENTS. ELECTRONIC DATA PROCESSING TODAY PROVIDES BETTER METHODS OF PREPARATION, STORAGE, AND TRANSMISSION OF THESE DOCUMENTS. THE REVISED TEXT PROTECTS THE NEEDS OF ALL OF THESE WHO NEED ACCESS TO THESE DOCUMENTS. THIS STATUTORY CHANGE MAKES NO SUBSTANTIVE CHANGE TO THE OPERATION.

ON PAGE 8 LINES 11 THRU 23 THE BILL GIVES THE COMMISSION GREATER FLEXIBILITY IN CARRYING OUT ITS OBLIGATION IN PUBLISHING RATE SCHEDULES. AT PRESENT, THERE IS VERY LITTLE NEED FOR THE COMMISSION TO PUBLISH RATES. BUT WHEN IT IS NECESSARY, THE PRESENT REQUIREMENT IS RESTRICTIVE AS TO HOW AND WHERE THE COMMISSION CAN PUBLISH THESE RATES AND DOES NOT NECESSARILY SERVE THE BEST INTERESTS OF THE PUBLIC. THIS REVISION WOULD LEAVE IT TO THE DISCRETION OF THE COMMISSION AS TO HOW BEST TO PUBLISH AND DISSEMINATE RATE SCHEDULES.

IT PROVIDES FOR AN IMPROVED METHOD OF REPORTING AND ACCOUNTING FOR LIVESTOCK KILLS IN SECTION 13 PAGE 10 LINES 22 THRU 25, PAGE 11 LINES 1 THRU 25, AND PAGE 12 LINES 1 THRU 6. IT WOULD REQUIRE THE RAILROAD COMPANY TO REPORT LIVESTOCK KILLS TO THE LIVESTOCK DEPARTMENT, RATHER THAN TO MAINTAIN A BOOK OF LIVESTOCK KILLS IN EACH COUNTY. THIS CHANGE WOULD PROVIDE FOR A CENTRAL PLACE IN THE STATE FOR THE RECORDING OF THAT INFORMATION. THE PUBLIC WOULD KNOW WHERE TO GO IF THEY NEEDED IT. IT WOULD ALSO PROVIDE COORDINATION WITH THE LIVESTOCK DEPARTMENT ASTRAY FUND AS REQUIRED. THE LIVESTOCK DEPARTMENT CONCURS THAT THIS WOULD BE A GOOD PLAN.

OTHER MAJOR CHANGES INCLUDE:

ELIMINATING THE REQUIREMENT TO POSTING PASSENGER FARES IN PASSENGER CARS

ELIMINATING THE REQUIREMENT FOR EMPLOYEES TO WEAR BADGES

ELIMINATING THE REQUIREMENT FOR RAILROAD AND STEAMBOAT PASSENGER AGENTS TO DISPLAY CERTIFICATES OF AUTHORITY

ELIMINATING THE REQUIREMENT FOR MAINTAINING UNNECESSARY FACILITIES WHICH IN MOST CASES HAVE ALREADY LONG SINCE CEASED TO EXIST, SUCH AS PLATFORMS AND PASSENGER FACILITIES WHERE TWO RAILROADS CROSS, JOIN OR PARALLEL EACH OTHER, EVEN THOUGH THERE IS NO NEED AND THE MAINTENANCE OF CONNECTING TRACKS BETWEEN TWO SUCH RAILROADS WHERE THERE IS NO NEED.

THE BILL WOULD ALSO ELIMINATE REQUIREMENTS FOR THE COOPERING AND REPAIR OF FREIGHT CARS BY SHIPPERS. CHANGES IN FREIGHT CAR DESIGN HAVE ELIMINATED COOPERING, WHICH IS THE COVERING OF BOXCAR DOORS FOR GRAIN SHIPMENTS. ALL GRAIN IS NOW SHIPPED IN COVERED HOPPER CARS. BY THE SAME TOKEN, RAILROADS GENERALLY DO NOT WANT SHIPPERS REPAIRING FREIGHT CARS. WHEN A SHIPPER FINDS A CAR UNFIT FOR LOADING RAILROADS HAVE THE CAPABILITY OF GOING TO THE SHIPPERS' SIGHT TO MAKE REPAIRS. IN MOST INSTANCES SHIPPERS ARE NOT EQUIPPED OR TRAINED TO MAKE REPAIRS TO MODERN RAILROAD EQUIPMENT.

THERE IS NOTHING IN THIS BILL WHICH REDUCES PUBLIC SERVICE COMMISSION AUTHORITY, EMPLOYEE SAFETY OR PROTECTION, PUBLIC SAFETY OR CONVENIENCE, OR CUSTOMER SERVICE.

IN CONCLUSION, I RECOMMEND PASSAGE OF THIS BILL.

Amendments to Senate Bill 137
Introduced Bill Copy
Prepared by the State Auditor

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 7

DATE 2/4/91

BILL NO. SB137

1. Page 6, line 9.

Following: "[(ii) // a / bank // savings / institution // trust / company // or / insurance / company // (iii) // a / lawyer // accountant // engineer // or / teacher // whose / performance / of / these / services / is / solely / incidental / to / the / practice / of / his / profession.]"

Insert: "(ii) a bank, savings institution, trust company, or insurance company; (iii) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession."

*licensed or certified
To do business in Man*

2. Page 11, lines 12 through 15.

Strike: lines 12 through 15 in their entirety.

Renumber: subsequent subsections.

3. Page 24, line 10.

Following: "of" :

Insert: "30-10-201 or"

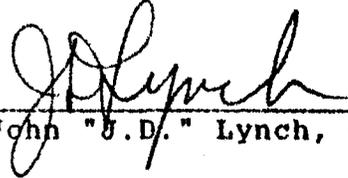
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 4, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 181 (third reading copy -- blue), respectfully report that House Bill No. 181 be concurred in.

Signed: _____


John "J.D." Lynch, Chairman

JM 2-4-91
Asst. Coord.

SD 2-4-91
Sec. of Senate

251212SC.Sj1

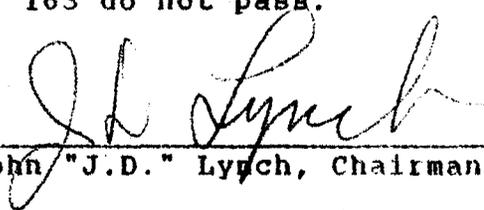
SENATE STANDING COMMITTEE REPORT

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February 4, 1991

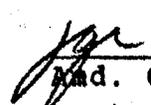
MR. PRESIDENT:

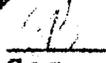
We, your committee on Business and Industry having had under consideration Senate Bill No. 163 (first reading copy -- white), respectfully report that Senate Bill No. 163 do not pass.

Signed: _____


John "J.D." Lynch, Chairman

46-3 Do Not Pass

 2-4-91
Mad. Coord.

 2-4-91
Sec. of Senate