

STANDING COMMITTEE REPORT

February 18

19 77

MR. **President**

We, your committee on **HIGHWAYS AND TRANSPORTATION**

having had under consideration **SENATE** Bill No. **327**

Respectfully report as follows: That **SENATE** Bill No. **327**

DO NOT PASS
REMARK

G. A.

STANDING COMMITTEE REPORT

February 18

19 77

MR. President

We, your committee on HIGHWAYS AND TRANSPORTATION

having had under consideration SENATE Bill No. 391

Respectfully report as follows: That SENATE Bill No. 391

DO PASS

OK

STANDING COMMITTEE REPORT

February 18 19 77

MR. **President**

We, your committee on **HIGHWAYS AND TRANSPORTATION**

having had under consideration **SENATE** Bill No. **374**

Respectfully report as follows: That **SENATE** Bill No. **374**

DO NOT PASS
SENATE

g.u.

STANDING COMMITTEE REPORT

.....February 18..... 19 77....

MR. President.....

We, your committee on HIGHWAYS AND TRANSPORTATION.....

having had under consideration SENATE..... Bill No. 390.....

Respectfully report as follows: That.....SENATE..... Bill No. 390.....

DO PASS

PA

STANDING COMMITTEE REPORT

February 18

19 77

MR. President

We, your committee on HIGHWAYS AND TRANSPORTATION

having had under consideration SENATE Bill No. 366

Respectfully report as follows: That SENATE Bill No. 366

DO PASS

Pa.

STANDING COMMITTEE REPORT

February 18

19 77

MR. President

We, your committee on HIGHWAYS AND TRANSPORTATION

having had under consideration SENATE Bill No. 426

Respectfully report as follows: That SENATE Bill No. 426,
first reading, be amended as follows:

1. Amend title, line 11.

Following: "COURT;"

Strike: "AND"

2. Amend title, line 11.

Following: "DAMAGES"

Strike: "..."

Insert: "; AND PROVIDING AN EFFECTIVE DATE."

3. Amend page 5,

Following: line 12

Insert: "Section 8. Effective date. This act is effective upon passage and approval and shall apply to all acts and transactions commenced or completed after the effective date."

AND AS SO AMENDED, DO PASS

~~DO PASS~~

STANDING COMMITTEE REPORT

February 18

19 77

MR. President

We, your committee on HIGHWAYS AND TRANSPORTATION

having had under consideration SENATE Bill No. 160

Respectfully report as follows: That SENATE Bill No. 160

first reading, be amended as follows:

1. Amend page 1, section 1, line 12.

Strike: "design specifications shall provide for utilization of coal"

Insert: "state agency shall use coal"

2. Amend page 1, section 1, line 14.

Following: "and"

Strike: "reasonably"

Insert: "it is determined after engineering tests"

3. Amend page 1, section 1, lines 14 and 15.

Following: "purpose"

Strike: "in the construction"

Insert: "within the scope of the intended project"

4. Amend page 1, section 2, line 25.

Following: "feasible."

Insert: "The requirements of this section are hereby waived for

~~DO PASS~~ those agencies having adequate public bidding and notification procedures."

AND AS SO AMENDED, DO PASS

STANDING COMMITTEE REPORT

.....February 18..... 19 77.....

MR. **President**.....

We, your committee on **HIGHWAYS AND TRANSPORTATION**.....

having had under consideration **SENATE**..... Bill No. **420**.....

Respectfully report as follows: That.....**SENATE**..... Bill No. **420**,
introduced bill, be amended as follows:

1. Amend title, line 6.

Following: "GOVERNMENT"

Strike: "IMPROVEMENT DISTRICT"

2. Amend page 1, section 1, line 21.

Following: "projects"

Strike: "for improvement districts"

AND AS SO AMENDED, DO PASS

~~XXXXXX~~



STANDING COMMITTEE REPORT

February 18

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MR. **President**

We, your committee on **HIGHWAYS AND TRANSPORTATION**

having had under consideration **SENATE**

Bill No. **362**

Respectfully report as follows: That **SENATE** Bill No. **362**,
first reading, be amended as follows:

1. Amend page 1, section 1, line 22.

Following: "No-change"

Strike: "Changes"

Insert: "No change"

Following: "revision"

Insert: "revision"

2. Amend page 1, section 1, line 23.

Strike: "revisions"

3. Amend page 1, section 1, line 25.

Following: "railroad"

Strike: "shall"

Insert: "may"

4. Amend page 2, section 1, line 2.

Following: "by"

Insert: "any railroad without first obtaining approval therefor

DO PASS from the board. Such changes or revisions shall be made by"

5. Amend page 4, section 1, line 17.

Following: "board"

Insert: "such prepared testimony and exhibits as they will introduce at the public hearing. Such testimony and exhibits shall be filed with the board"

6. Amend page 4, section 1, lines 18 through 21.

Following: "revisions"

Strike: "~~or, in the case of application for rate change, not later than 10 days before the hearing, the prepared testimony and exhibits that will be introduced at the public hearing.~~"

Insert: ", or not later than 30 days after the railroad has filed sufficient prepared testimony and exhibits, whichever occurs first."

AND AS SO AMENDED, DO PASS

DAVE MANNING, CHAIRMAN.

STANDING COMMITTEE REPORT

February 18

19 77

MR. President

We, your committee on HIGHWAYS AND TRANSPORTATION

having had under consideration SENATE Bill No. 375

Respectfully report as follows: That SENATE Bill No. 375,

first reading, be amended as follows:

1. Amend page 1, section 1, line 19.

Following: "rates"

Strike: "."

Insert: "; provided that upon application to the public service commission and after investigation, such carrier, in special cases, may be authorized by the commission to charge less for longer than for shorter distances for the transportation of passengers or property, and the commission may from time to time prescribe the extent to which such designated carriers may be relieved from the operation of the foregoing provisions of this section, but in exercising the authority conferred upon it in this proviso, the commission shall not permit the establishment of any charge to or from the more distant point that is not reasonably compensatory for the service performed."

AND AS SO AMENDED, DO PASS

~~XXXXXX~~
~~DO PASS~~

DAVE MANNING

Chairman.

STANDING COMMITTEE REPORT

February 18

19 77

MR. President

We, your committee on HIGHWAYS AND TRANSPORTATION

having had under consideration SENATE Bill No. 367

Respectfully report as follows: That SENATE Bill No. 367,
first reading, be amended as follows:

1. Amend page 1, section 1, line 20.
Strike: "testimony taken at such hearing"
Insert: "report of the accident"
2. Amend page 1, section 1, line 20.
Following: "be"
Strike: "transcribed and"
3. Amend page 1, section 1, line 25.
Following: "within"
Strike: "24 hours"
Insert: "the next two business days"

AND AS SO AMENDED, DO PASS

~~EXHIBIT~~



STANDING COMMITTEE REPORT

February 18

19 77

MR. President

We, your committee on HIGHWAYS AND TRANSPORTATION

having had under consideration SENATE Bill No. 392

Respectfully report as follows: That SENATE Bill No. 392,
first reading, be amended as follows:

1. Amend title, line 13.
Following: "TO"
Strike: "PUBLIC UTILITIES"
Insert: "MOTOR CARRIERS"

AND AS SO AMENDED, DO PASS
MARKER

AMENDMENTS TO SENATE BILL 160

1. Amend page 1, section 1, line 12.

Strike: "design specifications shall provide for utilization of coal"

Insert: "state agency shall use coal"

2. Amend page 1, section 1, line 14.

Following: "and"

Strike: "reasonably"

Insert: "it is determined after engineering tests"

3. Amend page 1, section 1, lines 14 and 15.

Following: "purpose"

Strike: "in the construction"

Insert: "within the scope of the intended project"

4. Amend page 1, section 2, line 25.

Following: "feasible"

Insert: "The requirements of this section are hereby waived for those agencies having adequate public bidding and notification procedures."

Dealer Sales and Service Agreement

FOR

BUICK MOTOR VEHICLES

BUICK MOTOR DIVISION

General Motors Corporation

CHRYSLER CORPORATION
STATEMENT BEFORE MONTANA SENATE HIGHWAYS AND TRANSPORTATION COMMITTEE
FEBRUARY 17, 1977

REGARDING SB 386 AND SB 426

As a matter of principle Chrysler Corporation objects to legislation of the type exemplified by SB 386 and SB 426. We feel these bills as introduced are unreasonable, unwarranted, and probably unconstitutional because they alter the terms of existing contracts mutually agreed-upon and voluntarily entered into. We also believe these proposals further regulate an industry whose very existence is already threatened by over-regulation both by the individual states and, more particularly, by the federal government.

We do, however, recognize that our position is not universally accepted. Because of this fact, we are willing to submit to reasonable regulation, but we do ask that it in fact be reasonable. We believe that some of the provisions of these proposals are not reasonable and ask the Committee to consider certain amendments.

For example, on page 9, line 10, of SB 386, before a new franchise can be established, we would have to show that it was "in the public interest." Yet on page 13, line 24, we could not terminate a franchise if it would be "injurious" to the public. We agree that no one should commit acts "injurious to the public," but we do not believe we should have to prove a "benefit." We therefore request that the same criteria be applied in both instances and that page 9, line 10, be amended to read, "and that it is not injurious to the public interest."

Another example of unreasonableness, we believe, is found in Section 11 on page 12, lines 9, 10, and 11. This section says that the only good cause for withholding consent to the sale of a franchise is the

purchaser's financial or managerial capabilities. Conceivably, this would require us to franchise a person with whom we had legally terminated a relationship -- perhaps in another state -- for good and legitimate reasons. Even worse, it suggests that we would be forced to franchise a person with a criminal record for consumer fraud or other crimes even though Chrysler would not want such a person representing our corporation or our products. We request that this restrictive definition of "good cause" be omitted (page 10, line 9 after "sale." through line 14).

Again, in section 12 on the same page, we would apparently be forced to recognize the transfer of the franchise even if the transferee was completely incompetent to manage the business. We encourage the succession of wives, sons, or daughters to the father's business and our franchise agreements specifically provide for this contingency, but we think we should have the right to assure that they are qualified to run the business. We fail to see how they or the public would gain if the business were to fall into bankruptcy within a matter of months after succession. SB 426 at least provides that the manufacturer can refuse to honor the transfer if he has "good cause for refusal." We ask only that a similar provision be incorporated into section 12 of SB 386.

Finally, on page 16, line 20, and again in SB 426 on page 5, line 11, we feel there are unreasonable provisions. Both of these deal with treble damages. We submit that these damages are punitive in nature and imply a criminal statutory fine or penalty. In our opinion, they are not justified, as is here the case, in a civil action whose basis -- if any -- would lie in a contractual matter. We respectfully request that these provisions be omitted.

In conclusion, Chrysler Corporation does not believe these bills are

Statement of Chrysler Corporation
February 17, 1977
Page Three

necessary in order to protect the interests of the consumers of Montana and we ask that they be rejected. If they are not rejected, we ask the Committee to consider the arguments we have presented, the amendments we have suggested, and to assure that any legislation that may prove necessary be reasonable and fair to all parties affected.

Thank you.

Inter-Organization

GENERAL MOTORS CORPORATION

Date: February 16, 1977

To: Mr. S. G. Gilliatt

From: James P. Melican, Jr.

Subject: Montana SB-386

Pursuant to our discussion, I have reviewed the above-captioned bill and have the following comments:

A. Page 2, line 1 - The word "franchise" should be "franchisee." Obviously, the franchise itself is simply a contract and is not located in any county.

B. Page 8, line 10 - This should read, "As regards new motor vehicles, these delivery and preparation, etc." Obviously, if the dealer performs warranty or other repairs incorrectly, he should be responsible for any product liability consequences.

C. Page 8, line 18 - delete last word and delete lines 19 and 20. Substitute - "on a fair and reasonable basis."

D. Page 9, lines 8 through 10 - This states that the franchisor must prove both good cause for an additional dealership and that it is in the public interest. The fact that the establishment of an additional dealership would be in the public interest should itself constitute good cause and no further or additional showing should be necessary. It would be much preferable

Mr. S. G. Gilliatt
February 16, 1977
Page Two

from our standpoint if this read good cause or in the public interest. This is especially true in view of the fact that good cause for entering into an additional franchise is defined on page 14 in paragraph (16).

E. Page 9, line 15 - The words "and the franchisee may, at any time," does not make sense in context. There would be no reason for the franchisee to file such a notice.

F. Page 10, line 1 - At the end of this sentence, we should press for an additional sentence which states something to the effect that notice to the Department shall not be required when the termination or nonrenewal is sought because the franchisee has not been open for business for at least seven consecutive business days, he has been convicted of a felony, or any license which he has been required by the state to have has been suspended or revoked.

G. Page 10, line 20 - This introductory phrase "a person who receives," is troublesome, particularly in view of the language on lines 15 through 19 of this same page. It suggests that a person who is not a franchisee but who receives a copy of the notice simply as an interested person may be entitled to file a protest. The language should be amended to read "a franchisee who receives a copy of a notice, etc."

Mr. S. G. Gilliatt
February 16, 1977
Page Three

OBJECTING TO
ESTABLISHMENT
OF A NEW VEHICLE
MOTOR VEHICLE
DEALER

H. Page 11, lines 16 through 18 - The burden of proof that good cause does not exist shall be with the franchisee. Since the public policy of this country and both the letter and spirit of the antitrust laws encourage competition, the franchisee who is attempting to exclude a competitor should have the burden of proving that competition would not be in the public interest.

I. Page 11, lines 22 through 25 and page 12, lines 1 through 6 - We should make every effort to have this paragraph eliminated. Subparagraph (a) would significantly modify the terms of the Dealer Agreement and subparagraph (b) is unnecessary in view of section 6 on page 15.

J. Page 12, line 7 through 14 - We should also attempt to have this paragraph eliminated. If we cannot get it eliminated, it would be better if we could get everything after the first sentence omitted.

K. Page 12, lines 15 through 23 - If we cannot get this paragraph eliminated, it would be better if, beginning on line 19, it read as follows, "the dealer's spouse, son, or daughter, the franchisor may not without good cause withhold its consent to the sale or transfer."

L. Page 14, lines 5 and 6 - The last clause would make more sense if it read "and any other motor vehicles of the same line-make in use in the community."

Mr. S. G. Gilliatt
February 16, 1977
Page Four

M. Page 14, lines 11 and 12 - The introductory phrase will no longer be needed if we are successful in having subsection (10) eliminated.

N. Page 14, line 22 - We should press for an additional consideration, preferably to be inserted immediately after (a), which reads as follows: "The amount of business transacted by other franchisors of similar line-makes in that community."

O. Page 16, lines 20 and 21 - There is no reason for the punitive provision for treble damages. This should read "in amount equal to pecuniary loss, together with costs including reasonable attorneys fees."

James P. Melican, Jr.
Attorney-in-Charge
Distribution
Office of the General Counsel

JPM:ct

cc: Mrs. Margo Parker

RECEIVED FOR ENTRY
3:00 P.M.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE,
AT NASHVILLE

MAR 1 - 1971

BRANDON LEWIS, Clerk

GENERAL MOTORS CORPORATION)

-vs-)

GEORGE F. McCANLESS,
ATTORNEY GENERAL, ETC., ET AL)

Civil Action
No. 5107

CONSENT DECREE

In this cause the court finds with the consent and agreement of the parties and upon stipulation of the parties, all as evidenced by the signatures of their respective counsel of record affixed hereto:

1. That plaintiff's compensation to its dealers for warranty service will be on and after the date of the entry of this decree in the manner set forth in the Schedule of Compensation filed herewith and made a part hereof by reference as Exhibit A.

2. That said Schedule of Compensation presently constitutes compliance with the provisions of T.C.A. 59-1714 as amended by Chapter 426 of the Public Acts of 1968 of the General Assembly of the State of Tennessee and with the Rules of the Tennessee Motor Vehicle Commission.

3. That Rule Sixteen referred to in the amended complaint in this cause has been amended by the Tennessee Motor Vehicle Commission as set forth in Exhibit B, attached hereto.

4. That in view of the foregoing the parties have agreed that the complaint in this cause may be dismissed