

MINUTES OF THE MEETING  
HIGHWAYS AND TRANSPORTATION COMMITTEE  
MONTANA STATE SENATE

March 24, 1977

The twenty-first meeting of the Highways and Transportation Committee was called to order by Vice Chairman Aber on the above date in Room 404 of the State Capitol Building at 9:30 a.m.

ROLL CALL: Senator Hazelbaker was absent, Senator Manning was excused. All other members were present.

Those present to testify on the bill to be taken up in executive action included the following:

Ted Stollfuss	Montana Highway Patrol
Duane Tooley	Montana Highway Patrol
Larry Majerus	Motor Vehicle Division
	Department of Justice
Gerald Raunig	Montana Auto Dealers Association

DISCUSSION OF HOUSE BILL 650: Senator Smith commented that this bill was an attempt to tighten the abuses of dealer plates. The reason the committee had sent the bill out before as amended was because of a feeling in the committee that the effect of the bill would be to limit competition. Senator Smith said that he had worked up some new amendments that would accomplish the needed results. (See Attached #1) These amendments would cut down on the abuses, give the Highway Patrol some teeth in order to cut down on the abuses, and at the same time would not limit the competition among dealers.

Senator Graham commented that Senator Smith's amendments would make it illegal for a salesman or a dealer to take a car with dealer plates across town to lunch. Senator Smith said that that was his intention. Senator Graham answered that he felt that was too restrictive. The purpose of the bill was to get at the illegitimate dealers who have the dealer plates and are abusing them, but this was too tight. A dealer should not be allowed to take a pleasure trip with the dealer plates, but the law would cause problems if it were so tight that he couldn't drive to lunch.

Vice Chairman Aber commented that there is an old adage that a car salesman never goes to church without his order book in his pocket. If a salesman expects to sell cars, he must have his demonstrator with him at all times, and that includes church.

Senator Graham said that this amendment would prohibit a dealer from using a demonstrator to get parts for his business.

Senator Smith asked for comments by Mr. Gerald Raunig of the Montana Auto Dealers Association. Mr. Raunig said that he too

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felt that the amendment was too restrictive. In using the cars and the dealer plates for selling purposes, many more things are involved than just demonstrating a car to a customer. There would be a great hue and cry if this amendment were included in the bill.

Senator Smith commented that the amendment doesn't prohibit a dealer from demonstrating a car on any street or highway in Montana. The amendment is a good one and hits hard and was intended to do so. Senator Smith suggested that a section be added to allow for the pick up of vehicles from another dealer. The amendment would then allow for the use of the car and the dealer plates for almost anything but personal use. There would still be loopholes, but this would tighten it up considerably.

Senator Aber commented that he could see Senator Smith's point, but that in the business of sales, a good salesman sells everywhere that he thinks there might be a deal and that includes canvassing bars.

Senator Smith asked the committee if they really thought that for the cost of \$35 for the first two sets of plates, and for \$5 for each set thereafter, a dealer should really be allowed to run all over the place with the dealer plates used for his personal uses.

Captain Tooley addressed the amendment at the request of Senator Smith. He said that the amendment was really very tight, but that it was in line with the intent of the bill. The problem with the amendment is that it really does more than we want it to do in that a dealer would technically have to have a customer in the car at any time it was operating. The problem with the existing law is the word principally on page 10, line 11. This word can be interpreted to mean just about anything. A dealer may technically take his car fishing because the principal use is with the dealership and he is not fishing all the time. The committee might just want to remove that word and still leave the law open for the use of the dealer plates for things other than demonstrating a car to a customer. If the amendment before the committee were to be passed, the Patrol would be kept quite busy.

Senator Smith asked Captain Tooley if the amendment would stop the abuses. Captain Tooley answered that the Patrol would make a valiant effort, but there are not enough of them to watch it closely enough to have an effect.

Senator Hager commented that he had talked to May Jenkins, the County Treasurer in Yellowstone County and that she was also of the feeling that the removal of the word principally would be the most helpful.

Senator Lockrem commented that he had talked to May Jenkins about the committee amendments and that he was of the impression until he saw the article in the Great Falls Tribune that Jenkins

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thought the bill was all right.

At the request of Senator Smith, Mr. Larry Majerus of the Division of Motor Vehicles in the Department of Justice, commented on the bill. He said that the problem with the bill now is that a person with no intention to sell any cars can still get a dealers license for a one time fee of \$300. This bill does not solve the problem of who can get the dealer plates. Both the Attorney General, who was a former county attorney, and the Missoula County Attorney have said that the problem with the law from an enforcement point of view is the word principally. Mr. Majerus said that he agreed that Senator Smith's initial amendments were too restrictive because a demonstration of a car might just to be to drive it in front of someone's house. Right now with all of the state tournaments Mr. Majerus's office has received a lot of complaints because of the out-of-county dealer plates at the tournaments. But there is really no way to prosecute now with the law the way it is.

Senator Graham suggested that the bill has accomplished its purpose in that it ties the plates to a particular salesman. A dealer should have to buy at least one personal license plate for the car he uses personally, but by tying the plates to a salesman, that problem of the wife driving a dealer car all the time should be eliminated. Senator Graham said that another problem could be corrected in the bill by striking permanent before the word sign and force the dealer to display some type of a sign.

Senator Smith suggested a second amendment (See Attached #2) in addition to striking the word principally on page 10. This would take care of the problems of the wife using the dealer plates that Senator Graham talked about.

Mr. Raunig, at the invitation of Senator Graham, said that with the assigning of the plates to salesmen, the problem of the wife using the dealer plates should be eliminated. He further commented that with the quarterly certification of who the plates are assigned to should attack the problem of finding the plates on college campuses. Both the salesman and the dealer would be held accountable.

Senator Aber said that the big problem that May Jenkins has found with the dealer plates in Yellowstone County is that people are getting the plates that have no dealerships. About 96 different plates are now out in Yellowstone County that are not legitimate dealers and that's 90% of the abuse there. Senator Lockrem commented that she also objects to the dealers driving home with the dealer plates. Senator Aber said that that was too tight when someone was making their bread and butter that way.

Senator Smith moved that the bill be amended on page 10, line 11 striking the word "principally". Senator Graham seconded.

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the motion. The motion carried unanimously with Senators Hager, Hazelbaker, and Manning absent.

Senator Smith moved that the bill be further amended on page 10, line 18. The section would require that the car was for bona fide sale. Senator Graham said that he didn't think that would be necessary with the provision for forcing the plates to be assinged. Senator Smith asked Captain Tooley if he would have any problems with the amendment. Captain Tooley answered that he would not, but that with the word principally striken, in addition to the assigning of plates, the problem would be taken care of. Senator Smith withdrew his motion.

Senator Graham said that he thought the committee should take a look at their previous action on the amendments on the sign section on page 4. Senator Smith asked what the existing law said. Mr. Raunig answered that a lot or building and a sign are now required. Senator Smith said that the only problems on that is the sign. If the word permanent is taken out before the word sign then it would be ok. This would allow the sale of cars out of a gas station.

The committee discussed the problems with the permanent building provision and the sign. Senator Bergren commented that by removing the whole section as the committee had done before didn't accomplish what the bill set out to do. Captain Tooley commented that one of the main abuses is the used dealer. Motel dealers, street corner dealers and other people with no interest in selling or being a used dealer abuse the plates. We need to get at him, not the legitimate dealer. The one thing that would help in this regard would be to require the dealer to move a certain number of vehicles each year in order to qualify for the dealer plates. To tie the dealer to a permanent location would also help to eliminate the dealer who "operates on the street corner or out of a motel".

Senator Graham moved to amend HB 650 by reconsidering the actions taken in the amendment to subsection (i) on page 4. He stated that his intention then would be to strike the word permanently as it appears twice in that section. Senator Etchart asked how big the sign that would be required would be. Senator Smith answered approximately 18" x 18". Captain Tooley said that a license plate can be read at 100' and the bill only requires the sign to be readable at 150'. Senator Etchart seconded the motion to reconsider. The motion carried unanimously; Senators Lockrem, Hazelbaker, Hager and Manning were absent.

Senator Graham moved to amend subsection (i) on page 4 as follows: Amend page 4 line 13, strike "permanent"; Amend page 4, line 14, strike "and", insert "or"; Amend page 4, line 15, strike "permanent". Senator Smith seconded the motion. The motion carried unanimously with Senators Manning, Lockrem, Hager, and Hazelbaker absent.

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Captain Tooley stated that the Patrol has problems with those who get the dealer licenses but are not really in the business of selling cars. If the requirement is put in that the persons qualifying for the dealer plates must sell a certain number of cars.

Senator Etchart commented that he felt the 12 car requirement was too great. Senator Bergren said that they were required to pay the \$300 fee. Captain Tooley responded that there are circumstances where it would not be a bad deal to pay the \$300 fee in lieu of paying the taxes because the way the bill is now written, the fee is only a one time thing and the dealer can get the plates forevermore without selling any cars.

Mr. Raunig stated that the intention of this section in the original bill was to address the problem of the non-dealers. The original bill was a \$500 fee as a deterrent the first time and the requirement to sell a certain number of cars thereafter or pay the \$500 fee again. The way the bill reads now it is a \$300 fee for the first time only.

Senator Graham commented that 12 was too many. He suggested cutting it back to six. Mr. Raunig said that there was nothing magic in any number, it was just some kind of proof the person was really in the car selling business.

Senator Bergren explained that the reason this requirement was stricken to begin with was the Lockrem problem example of the heavy equipment dealer being required to pay the fee every year. Senator Aber commented that he didn't think that this bill would affect them.

Senator Etchart said that he objected to stating a certain number of vehicles to be sold. There might still be some abuse, but they would have to spend some money in order to do so.

Senator Graham asked for clarification on the paying of the fee once and then selling a certain number of cars in order to keep the plates. Mr. Raunig said that was the case. He suggested that if the committee didn't want the number of plates in there then they should require that the fee be paid yearly.

Senator Etchart moved that the bill be amended on page 5, section 1, line 6, strike "..." and insert: ", or shall certify under oath that the applicant sold 6 or more used motor vehicles during the previous calendar year." Bob Person said that there was some problem with the language in that if the and were in the amendment, the person would have to sell 6 cars before applying for the plates and if the or were in then he could qualify for the plates without paying the fee the first time if he had sold six cars in the preceding year.

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Senator Graham said that he wanted the bill to read that the \$300 fee would have to be paid the first time and every year thereafter if the dealer had not sold at least 6 cars the preceding year. Bob Person said that he could work that language out.

Senator Graham suggested if the committee members were all in agreement as to the intent of the amendment, then the committee could pass the intent of the motion and let Bob work out the wording.

Senator Hager asked what constituted the proof of having sold 6 cars. Captain Tooley said that the Registrar's office had records that could certify whether or not the cars were sold. Senator Graham said that the books would indicate who the cars were sold to and the truth of the matter could be traced down that way.

Senator Etchart moved to further amend section 1, pages 4 & 5, subsection (c) as intended by the committee and let Bob Person work out the wording. Senator Graham seconded the motion. The motion carried unanimously with Senators Smith, Hazelbaker, Manning and Lockrem absent.

Senator Hager asked if it would be possible to replace the words "BIG SKY COUNTRY" with the words "NOT LICENSED". This would be a psychological incentive not to use the dealer plates for personal use. Senators Healy and Aber both commented that the vehicle is really licensed, only at a different rate.

DISPOSITION OF HOUSE BILL 650:

Senator Etchart moved that HB 650 be concurred in as amended. Senator Graham seconded the motion. The motion carried with Senator Hager abstaining, Senators Lockrem, Manning, and Hazelbaker absent, Senator Smith voting "aye" in abstencia, and the remainder of the committee members voting "aye".

It was agreed that the secretary would have each of the committee members sign the final amendments before sending the Committee Report out.

ADJOURNMENT: There being no further business, the meeting was adjourned at 10:50 a.m.



LARRY ABER, VICE CHAIRMAN

ROLL CALL .

HIGHWAYS AND TRANSPORTATION COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 3/24

SENATE HIGHWAYS & TRANSPORTATION COMMITTEE

BILL. 118-650

VISITORS' REGISTER

DATE 3/24

# STANDING COMMITTEE REPORT

March 24..... 19 71.....

MR. .... President.....

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

having had under consideration ..... **HOUSE**..... Bill No. **650**.....

Respectfully report as follows: That ..... **HOUSE**..... Bill No. **650**.....  
**third reading, be amended as follows:**

1. Amend page 4, section 1, line 11.

Following: "(i)"

Strike: " "

Insert: "and"

Following: "(ii)"

Strike: " , and (iv)"

2. Amend page 4, section 1, line 13.

Following: "a"

Strike: "permanent"

3. Amend page 4, section 1, line 14.

Following: "building"

Strike: "and"

Insert: "or"

4. Amend page 4, section 1, line 15.

Following: "A"

Strike: "PERMANENT"

..... Chairman.

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Highways and Transportation Committee Amendments to HB 650

5. Amend page 4, section 1, line 21 through line 6 on page 5.  
Following: line 20

Strike: subsection (c) in its entirety

Insert: "(c) To qualify for a used motor vehicle dealer license a person must submit an annual application for that license and comply with the provisions of this subsection in addition to fulfilling the requirements of subsection (1)(b) above. A new applicant for a used motor vehicle dealer license shall pay \$300 to the registrar of motor vehicles in addition to any other sums required by this section or other provisions of the law. An applicant for a renewal of a used motor vehicle dealer license shall certify under oath that he has sold more than five used motor vehicles during the preceding calendar year or pay an additional \$300 before he may be licensed."

6. Amend page 5, section 1, lines 11 through 16.

Following: line 10

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

7. Amend page 10, section 1, line 11.

Strike: 'principally'

*JK*  
AND AS SO AMENDED, BE CONCURRED IN

DAVE MANNING, CHAIRMAN

AMENDMENT TO HOUSE BILL 650

1. Amend page 10, section 1, lines 10 through 12.

Strike: "or used principally in the conduct of the dealer's business in selling or demonstrating motor vehicles"

Insert: "The display of dealer plates under this section authorizes the operation of a vehicle upon the streets and highways of the state for the purpose of demonstrating the vehicle to a prospective purchaser or for the purpose of test driving the vehicle in connection with mechanical repairs or adjustments made by the dealer in connection with preparing the vehicle for sale, or for the purpose of transporting a vehicle to a dealer's place of business."

Suggested amendments to HB 650

Amend page 10, section 1, line 18.

Following: "dealer."

Insert: "No person may use a vehicle displaying a dealer plate for his own personal or private use except as provided in this section."

Amendments to HB 650:

1. Amend page 4, section 1, line 11.

Following: "(i)"

Strike: ","

Insert: "and"

Following: "(ii)"

Strike: ", and (iv)"

2. Amend page 4, section 1, line 13.

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Insert: "or"

4. Amend page 4, section 1, line 15.

Following: "A"

Strike: "PERMANENT"

5. Amend page 4, section 1, line 21 through line 6 on page 5.

Following: line 20

Strike: subsection (c) in its entirety

Insert: "(c) To qualify for a used motor vehicle dealer license a person must submit an annual application for that license and comply with the provisions of this subsection in addition to fulfilling the requirements of subsection (1)(b) above. A new applicant for a used motor vehicle dealer license shall pay \$300 to the registrar of motor vehicles in addition to any other sums required by this section or other provisions of the law. An applicant for a renewal of a used motor vehicle dealer license shall certify under oath that he has sold more than five used motor vehicles during the preceding calendar year or pay an additional \$300 before he may be licensed."

6. Amend page 5, section 1, lines 11 through 16.

Following: line 10

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

7. Amend page 10, section 1, line 11.

Strike: "principally"