

MINUTES OF MEETING  
SENATE JUDICIARY COMMITTEE  
March 31, 1977

The meeting of this committee was called to order on the above date by Sen. Roberts, Vice-Chairman, at 9:45 a.m. in Room 442 of the State Capitol Building.

ROLL CALL:

All committee members were present except Senator Turnage who was excused to attend another hearing. He returned to this meeting at 10:15 a.m..

EXECUTIVE SESSION

HB 251 - this bill was discussed by the committee as to whether people committing DWI's are alcoholics or not. Sen. Towe moved the adoption of the amendments which are attached. (See Attach. #1) The motion carried unanimously. He then moved that HB 251 as amended BE CONCURRED IN. The motion carried unanimously. Without objection, it was authorized to insert the words "except as otherwise provided".

HB 243 - Sen. Towe moved to table HB 243. The motion carried unanimously.

HB 356 - Sen. Lensink moved to amend section 1, page 1, line 15, following "DRIVING" by striking "WHILE INTOXICATED" and inserting "under the influence of alcohol or drugs"; and to amend the title in lines 5 and 6, following "FOR" by striking "A TRAFFIC LAW VIOLATION: and inserting "DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS". The motion carried unanimously. Sen. Towe then moved that HB 356 as amended BE CONCURRED IN. The motion carried unanimously.

At this time, Senator Turnage, who had returned and again assumed the chair, assigned the following bills to be carried on 2nd Reading:

Sen. Towe - HB 164 and 251  
Sen. Regan - HB 567 and 326  
Sen. Murray - HB 280  
Sen. Lensink - HB 457 and 356

Sen. Turnage will carry HB 498 when it is on 2nd Reading.

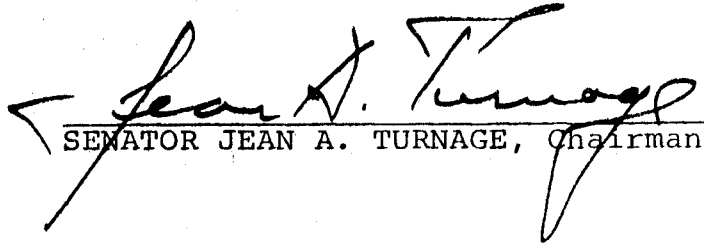
HB 334 - Sen. Lensink moved that HB 334 as amended BE CONCURRED IN. The motion carried on a vote of 5 - 3 with Senators Warden, Roberts and Regan voting "No". (The amendment was made on 3/30/77 and is in the Minutes for that date)

HB 761 - Sen. Towe moved to reconsider previous action of the committee on this bill. The motion carried unanimously. He then moved that HB 761 be laid on the table. The motion carried unanimously.

At this time, Joe Driscoll of the Insurance Commissioner's office presented the committee with the national statistics on legal insurance which they had requested.

HB 374 - Sen. Towe moved the adoption of the amendments proposed by the Montana Medical Assn.. (See Attach. #2) The motion carried unanimously. After discussion, Sen. Warden moved that HB 374 BE NOT CONCURRED IN. The motion carried on a 6 - 2 vote with Senators Lensink and Olson voting "No".

There being no further business before the committee at this time, the committee adjourned at 11:00 a.m..

  
SENATOR JEAN A. TURNAGE, Chairman

Respectfully report as follows: That House Bill No. 251, the third reading bill, be amended as follows:

(Attach #1)

1. Amend title, lines 5 and 6.

Following: "ACT TO"

Strike: "PROVIDE AN ALTERNATIVE TO IMPRISONMENT FOR PERSONS CONVICTED OF"

Insert: "REVISE THE PENALTIES FOR"

2. Amend title, lines 7 and 8.

Following: "DRUGS;"

Strike: "TO PROVIDE FOR SUSPENSION OR REVOCATION OF DRIVING PRIVILEGES;"

3. Amend title, lines 11 and 12.

Following: "DRIVE;"

Strike: "TO PROVIDE FOR MANDATORY DRIVER IMPROVEMENT SCHOOL AND ALCOHOL  
TREATMENT PROGRAM;"

4. Amend title, line 13.

Following: "UPON"

Respectfully report as follows: ~~XXXXXX~~

Strike: ~~XXXXXXXXXX~~ "COUNSELING"

Insert: "EDUCATION"

5. Amend page 3, section 1, lines 21 through 24.

Following: "months"

Strike: "a suspension of his operator's license or nonresident's operating  
privilege for not more than 6 months, to which may be added, in the  
discretion of the court,"

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

Following: "imprisonment."

Strike: "ON A FIRST CONVICTION UNDER THIS SECTION, THE DEFENDANT SHALL BE  
REQUIRED TO ATTEND A COURT-APPROVED, ALCOHOL RELATED DRIVER IMPROVEMENT  
SCHOOL."

7. Amend page 4, section 1, lines 6 through 10.

Following: "months"

Strike: "a suspension of his operator's license or nonresident's operating  
privilege for not less than 1 YEAR, to which may be added, in the dis-  
cretion of the court,"

8. Amend page 4, section 1, lines 14 through 16.

Following: "year"

Strike: "and a revocation of his operator's license or nonresident's oper-  
ating privilege for not less than 1 year"

10. Amend page 4, section 1, lines 19 through 22.  
Following: ~~XXXXXXX~~ "(\$1,000.00)."  
Strike: "UPON A SECOND OR SUBSEQUENT CONVICTION OF A VIOLATION OF THIS  
SECTION, THE DEFENDANT SHALL BE REQUIRED TO ENROLL IN AN ALCOHOL TREAT-  
MENT PROGRAM APPROVED BY THE DEPARTMENT OF INSTITUTIONS."
10. Amend page 4, section 1, line 23.  
Following: "(4)"  
Strike: "the"  
Insert: "Except as otherwise provided in this section, the"
11. Amend page 5, section 1, line 3.  
Following: line 2.  
Strike: "THE"  
Insert: "a course in a"  
Following: "SCHOOL"  
Insert: "approved by the court"  
Following: "OR"  
Insert: "an"  
Following: "PROGRAM"  
Insert: "approved by the department of institutions"
12. Amend page 5, section 1, line 4.  
Following: line 3  
Strike: "ORDERED BY THE COURT"  
Following: "Each"  
Strike: "individual"  
Insert: "school"
13. Amend page 5, section 1, line 5.  
Following: "such"  
Strike: "counseling"  
Insert: "education"
14. Amend page 5, section 1, line 6.  
Following: "of the"  
Strike: "counseling"  
Insert: "education"
15. Amend page 5, section 1, line 7.  
Following: "accepted"  
Strike: "for counseling"  
Insert: "by the school"
16. Amend page 5, section 1, lines 8 and 9.  
Following: "treatment"  
Insert: "program"  
Following: "attend the"  
Strike: "counseling sessions"  
Insert: "school"  
Following: ", the"  
Strike: "counselor"  
Insert: "school"
17. Amend page 5, section 1, line 13.  
Following: "through"  
Strike: "(5)"  
Insert: "(A)"

18. Amend page 7, section 2, lines 5 and 6.  
Following: "thereof"  
Strike: ", except as provided in 32-2142"  
Insert: "except as provided in 31-149"
19. Amend page 8, section 3, line 20 through line 3 on page 9.  
Following: "convicted."  
Strike: line 20 through line 3 on page 9 in their entirety  
Insert: "The court may also recommend that the division issue a restricted probationary license in lieu of the suspension required in 31-149(b) on the condition that the individual attend a driver improvement school or an alcohol treatment program if one is available. The division shall issue a restricted probationary license unless the person otherwise is not entitled to a Montana operator's or chauffeur's license."
20. Amend page 9, section 4, line 19.  
Following: "31-153,"  
Insert: "31-184.1,"  
Following: "and"  
Insert: "and"
21. Amend page 9, section 4, line 20.  
Following: line 19  
Strike: "and 32-2142,"
22. Amend page 10, section 4, lines 16 and 17.  
Following: "suspend"  
Strike: "or revoke"
23. Amend page 10, section 4, line 18.  
Following: "days"  
Strike: "not more than"
24. Amend page 10, section 4, line 22.  
Following: "shall"  
Strike: "suspend or"

*Attach #2*

AMENDMENTS TO HB 374

Page 24, line 8, after "(4)" and before the word "For...", insert the following sentence:

"All expenses of collecting and administering the fund shall be paid from the fund."

Purpose of change: To eliminate any fiscal impact on state government, particularly the insurance commissioner's office.

Page 27, a new section 30:

"Section 30. Contracts Valid and Enforceable. Except as otherwise provided in this Act, all contracts entered into pursuant to the terms of this Act are valid, effective, and enforceable, notwithstanding the provisions of section ~~13-804~~."

Purpose of change: To ensure that the Act is excepted from the general language of other statutory prohibitions.

## JUDICIARY COMMITTEE

Date 3-31-77

[illegible]

Mr. Wadhams expressed the appreciation of the Subcommittee for the hard work of the individual members of the Advisory Committee and commended Mr. Pugh for the consummate skill and untiring diligence he demonstrated as its Chairman. Mr. Wadhams then recommended that the Subcommittee receive the Advisory Committee report and adopt the model bill.

Commissioner Howard B. Clark of South Carolina stated that he supported immediate adoption of the model law. Mr. Larry Barry, Kansas Department, stated that Kansas was considering enacting the model law and recommended the Subcommittee to adopt it.

The Subcommittee went into executive session.

After a general discussion concerning the need for and propriety of the proposed model law, it was moved and seconded that the Subcommittee receive the report of the Advisory Committee and adopt the model law. The Subcommittee members present voted unanimously in favor of the motion.

It was then moved and seconded that the (D5) Subcommittee offer its support and cooperation to the (B5) Subcommittee in its resolution to address the possible federal preemption of state regulation found in Section 514 of the Employee Retirement Income Security Act of 1974. The Subcommittee voted unanimously in favor of this motion.

With no further business to me before it, the (D5) Subcommittee adjourned.

Hon. James M. Jackson, Chairman, Nebraska; Hon. Everette S. Francis, Vice-Chairman, Virginia; Hon. John J. O'Shea, Alaska; Hon. Thomas D. O'Malley, Florida; Hon. William H. Huff III, Iowa; Hon. Frank M. Hogerty, Jr., Maine; Hon. Dick L. Rottman, Nevada; Hon. Lester L. Rawls, Oregon; Hon. William J. Sheppard, Pennsylvania; Mr. Durwood Manford, Texas; Hon. Stanley C. DuRose, Wisconsin.

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#### PREPAID LEGAL EXPENSE INSURANCE MODEL ACT

As Adopted December 5, 1974

#### TABLE OF CONTENTS

##### Introductory Drafting Notes

- Sec. 1 - Purposes
- 2 - Definitions
- 3 - Authorization Required
- 4 - Conditions for Issuing Certificate of Authority
- 5 - Regulation of Policy Forms and Rates
- 6 - Separate Accounts
- 7 - Management and Exclusive Agency Contracts
- 8 - Annual Report
- 9 - Reserves
- 10 - Investment of Assets
- 11 - Trade Practices
- 12 - Licensing of Agents