

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION COMMITTEE
MONTANA STATE SENATE

January 25, 1979

The eighth meeting of the Highways and Transportation Committee was called to order by Chairman Mark Etchart on the above date in Room 410 of the State Capitol Building at 1:30 p.m.

ROLL CALL: Senators Etchart, Hazelbaker, Kolstad, Manning and Healy were present. Senator Hager arrived late. Senator Graham was absent.

CONSIDERATION OF SENATE JOINT RESOLUTION 7: Senator McCallum, District 12, and Chief sponsor of SJR 7 stated this was a joint resolution of the Senate and the House of Representatives of the State of Montana directing the appointment of a joint committee to meet during the session to investigate the lack of consistency in work quality among the several highway maintenance sections of the State Department of Highways.

Senator McCallum said he realized it would be impossible to look into this during this session. I introduced this Resolution because there are problems in the different sections in the maintenance areas of our highways. As a Legislator, I feel we are responsible for the safety and well-being of the citizens in Montana. I am not saying that the people who perform the duties in the different sections are at fault. I don't know where the fault is. Distances in Montana: Some of the roads you feel safe on and others you don't. I hear complaints on the parts and repairs that are being done. A lot of the work could be done at the section headquarters, but they have to go through the division headquarters. I think the thing that probably brought this to a head was the fact that last session, there was a petition presented to Mr. Gruel to maintain one section of highway. Since that time, the personnel has changed and now at this time, it is one of the better sections in Montana. Shortly before this session there was a meeting and they told us they were not going to maintain roads 24 hours a day and were not going to sand all sections. He told me some were not in this district and that they used too much sand.

Chairman Etchart asked if there were any opponents to SJR 7. James Beck representing the Highway Department told the committee they neither supported nor opposed this SJR 7. They were willing to cooperate should the Legislature desire to investigate this particular matter. He introduced Mr. Don Gruel, State Maintenance Superintendent and told the committee Mr. Gruel would be glad to cooperate with any investigation committee during the session or anytime they choose.

Chairman Etchart asked if there were any other opponents to Senate Joint Resolution 7.

Senator McCallum requested to make some closing remarks. He told the committee he felt that when you go from one section that is well maintained and then into one that is not, there is something wrong.

Chairman Etchart asked the Committee if they had any questions on SJR 7. Senator Healy addressed Senator McCallum, "You said there are several highway maintenance sections. Don't you think that should be spelled out as to which ones they are."

Senator McCallum stated he does not travel all of Montana, but he had talked to people and they claim their sections are bad. If I were to name every section, I am sure I would have to travel the State of Montana and I would be happy to do so, if I could get mileage and per diem.

Senator Healy said he thought it should be spelled out in case the committee does appoint a committee.

Senator McCallum again said his biggest concern is the uniformity of all sections.

Senator Healy asked how many section there are.

Mr. Gruel stated there are 138 different sections, and that includes sections within cities.

Senator Hazelbaker asked how many divisions there are.

Mr. Gruel reported there are 11 divisions.

Senator Kolstad asked if by setting up this committee the bill would establish priorities so that the sections are maintained.

Senator McCallum said that uniformity is what he wants to see come out of this bill. He stated the Division foreman should have it all uniform, in each section.

Senator Kolstad asked Senator McCallum if he felt if there was more uniformity built into the maintenance, it would change.

Senator Hazelbaker asked Mr. Gruel if at one time there was a national report on this.

Mr. Gruel said the GSA has a report looking into the federal highway systems for all the states. He also said that there are 11 division, and 138 different individual supervisors in the 138 different sections and they are just like every individual and there are problems.

Chairman Etchart asked if there were any further questions. There being none the hearing was closed.

CONSIDERATION OF HOUSE BILL 4: Chief Sponsor of the bill is Representative Marks. This is a Recod bill, an act to generally revise and clarify the laws relating to highways; and repealing section 32-1621, R.C.M. 1947. Dave Cogley from the Legislative Council went over the bill explaining all the changes. He stated the main thing this bill did was change reference to Federal Aide Highway Act. In 1958 codified all of the federal highway acts to Title 23. Also changes grammatical errors. Change from "this act" to "title". After Mr. Cogley went over the bill section by section, and there being no questions, the hearing on House Bill 4 was closed.

CONSIDERATION OF SENATE BILL 179: Chief Sponsor of the bill is Senator Hager. It is an act to amend section 61-3-313, to put vehicles with personalized license plates on the staggered registration system. Senator Hager said this is a simple bill and that it was not the intent of the state that personal license plates should not be on staggered system.

Chairman Etchart asked the committee if there were any questions on SB 179.

Larry Majerus from the Highway Department said they support this bill. He told the committee it has caused problems in that people have to come in twice. It is a housekeeping bill for the benefit of those people on personalized license plates.

Senator Kolstad asked if this would change the fees.

Senator Hager said no, the fees would remain the same. Instead of buying them in January, you buy them on the anniversary date of when you first buy the car.

Chairman Etchart asked the committee if there were any further questions, and there being none, the hearing was closed on SB 179.

CONSIDERATION OF SENATE BILL 160: Chief Sponsor of the bill is Senator Towe. He said this is an act to clarify when use of motor vehicle dealer license plates is not authorized; amending section 61-4-103, MCA. He gave the committee some background on this particular bill stating that during the fall when he was campaigning, he received more comments of potential abuse on auto dealers plates and this prompted him to introduce this bill. He stated the law is vague and not clear for using dealer plates. He referred to Page 3, Line 10 of SB 160 and read. There seems to be confusion in the interpretation of this language. This bill would do two things. It would clarify this point of confusion and it would change the burdon of proof. He told the committee it is impossible to do anything about the existing law. The burdon of proof of establishing that guilt is almost impossible. The

burden of proof would remain on the County Attorney to prove that anything was wrong, up to this point. If there was evidence that it was not being used for demonstration, or if it is not in the car lot, or out for service, body shop, then the burden would switch to dealer to what, in fact, he was doing. The dealer could still come to his own defense. He has the burden of presenting sufficient evidence. That's what the bill does. It clarifies the law and changes the Burden of Proof, that it would be the dealers responsibility of coming forward when its use was lawful. It would make a problem for the dealer who wants to use the plates for his own personal use. Perhaps our licensing law does put him in a bind and perhaps we should have a law to get a D-plate for one or two months. Most dealers do not drive a vehicle for a whole year. He told the committee that May Jenkins, Treasurer of Yellowstone County, Billings, supports this bill.

Chairman Etchart asked if there were any other proponents of SB 160. Larry Majerus told the committee that this has been a problem. They have solved some of the problems and he would suggest that there be a provision for part time dealerships. The Public feels that personal use is not authorized. There is a communication problem between the present law and the public. There are several JP's that interpret it differently. There is a fine line between advertising and demonstrations. The Highway Department is glad the committee is considering this bill.

Chairman Etchart asked if there were any opponents to SB 160. Gerald F. Raunig, Executive Vice-President, Montana Automobile Dealers Association spoke to the committee. See "Exhibit A" for a copy of his presentation.

Chairman Etchart asked if there were any other opponents to SB 160. Larry Huss, Attorney for the Montana Automobile Dealers Association told the committee it was difficult for him to believe that in this day of high taxes, unemployment and other problems, that the abuse of dealer plates was the biggest problem. He said the idea that this is a mass problem is just absurd. There are few people that get upset about it. They are the vocal ones and you will always find someone who will abuse it. Secondly, the use of the dealer plate is not nearly as broad as Senator Towe would have you to believe. There are certain limitations that were made more specific during the 1977 session. You simply cannot use them for anything you want. You cannot provide your wife with a car for her use. The law limits the use of the dealer plate. In order to use that plate he has to be in or on the business of that dealership. This bill would make the dealer prove that he is innocent. If the police stop the person with a dealer plate, according to that bill, the dealer has to produce.

Chairman Etchart asked if there were any other opponents to SB 160. William Romine from the Montana Automotive Dismantlers and Recyclers Association spoke in opposition to SB 160. See "Exhibit B" for his comments.

Senator Towe requested to make a closing remark stating that there is a great deal of merit in changing the burden of proof. He suggested an amendment to Page 3, Line 22, adding, "exhibitions, other dealer business or other appropriate use relating to business" after the word establishment. Also, to strike the word or, between shop and other on Line 21.

Chairman Etchart asked the committee if they had any questions on SB 160.

Senator Hager asked Senator Towe to indicate the number of complaints and how serious the problem is.

Senator Towe told Senator Hager and the committee he had inquiries and asked the County Attorney about it this was the response he got about it, a new bill.

Senator Healy wanted to know what areas of the state the complaints come from.

Larry Majerus told the committee there are 1100 auto dealers. Less than 40% are new car dealers. 60% are used car dealers. He said we are talking about 16 to 20 thousand plates that are out now. He stated there were some real problems two years ago, but we tightened down on the number of plates, and the accountability of the plates. We still have isolated cases. It is not consistent, because the law is not clear.

Senator Healy told the committee the only type of complaints he had received in Silver Bow County were regarding people registering their cars in different counties. He asked Senator Towe if he would be willing to amend SB 160 to apply to the Billings area only.

Senator Towe told the committee and Senator Healy if they wanted to make it applicable to Billings, that would be fine.

Chairman Etchart asked the committee members if there were any further questions, there being none the hearing was closed on SB 160.

CONSIDERATION OF SB 113: Chairman Etchart told the committee members that the hearing on SB 113 was carried over from the January 23rd meeting and asked if there were any proponents present to testify on this bill.

Larry Majerus from the Highway Department told the committee they support and feel it was worth it.

Chairman Etchart asked if there were any opponents to SB 113. William Romine from the Montana Automotive Dismantlers and Recyclers Association spoke in opposition to SB 113. See Exhibit "C" for his comments. He also pointed out the the law requires two plates for a motorcycle, but when you buy your plates you only

PAGE 6

receive one plate. He would like to see the law cleared up on this issue. Also, on Page 25, Line 8 thru 12, is a conflict with another law and would like to see that repealed. Otherwise, he sees no other problems with the bill.

Chairman Etchart asked if there were any questions on SB 113. Senator Hazelbaker asked Dave Cogley about Page 97, and the rationale in striking 31-167. Dave told him it was a 1967 law.

Chairman Etchart stated the committee would put this bill under consideration and pursue it further at the next meeting of the Highways and Transportation meeting to be held on January 27, 1979 in room 410 of the State Capitol Building at 1:30 p.m.

There being no further business, the meeting was adjourned until Saturday.



SENATOR MARK ETCHART

cf

SB160 - Highways & Transportation - 1/25/79 - 1:30 p.m.

Chairman and Members of the Committee:

We appear in opposition to SB160 for a number of reasons.

First of all we do not believe that any more laws are required to control perceived D-Plate abuse that presently exists.

One of the reasons for some of the complaints that arise in this area is a lack of understanding by the public as to the many and varied legitimate uses for D-Plates. To name a few ----

- Demonstration of a vehicle
- Transporting vehicles between dealers
- Transporting vehicles to allied garages, body shops, paint shops, upholstery shops, etc.
- Road testing in "get ready" service work
- Transporting vehicles home - having been purchased at an auction
- Delivering service customers home or to work while vehicle is in the shop for service

Without attempting to try and list the many more valid uses for D-Plates, it should be said that much of the D-Plate bad press started after 1969, when the plates stayed with the owner, rather than with the car. That change caused dealers to need more D-Plates because none of their used cars had plates - consequently D-Plates have more exposure - which then leads to complaints because people do not understand the variety of needs for D-Plates. As you know D-Plates are the only permit system we have to transport vehicles and conduct our business.

Secondly, we feel that changes made along these lines during the last session have made considerable headway in eliminating D-Plate abuse, and that no further restrictive measures are necessary.

Lastly, I would like our MADA attorney to address the "presumption" of guilt aspect of this bill.

In conclusion, we request you to consider a DO NOT PASS for SB160 - Thank You.

Gerald F. Rawlin
Executive Vice-President
Montana Automobile Dealers Association

NAME: William L. Romine DATE: 1-25-79ADDRESS: P.O. Box 1691, Helena, MT. 59601PHONE: 442-2220REPRESENTING WHOM? Mont. Automotive Disassemblers & Recyclers Assoc.APPEARING ON WHICH PROPOSAL: S.B. 160DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: The wrecking yards of this state are large, and do not have the benefit of national Advertising such as that put out by Ford or GM. The yards rebuild cars and sell them. They cannot afford expensive advertising. Their only real means of selling used cars is to put a for sale sign on the car and drive it around for people to see. The car is the means of advertising. In this age of energy conservation, we should encourage the re-cycling of automobiles. Every car that is repaired or rebuilt results in a large energy savings over the manufacturing of a new car. This bill would reduce the ability of the wrecking yards to advertise and it would also be difficult to enforce. Police would have to stop every car with dealer's plates to find out where it was going. The cost in manpower would be huge.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: William L. Romine DATE: 1-23-79

ADDRESS: P.O. Box 1691 Helena, Mont.

PHONE: 442-2220

REPRESENTING WHOM? Montana Antiquarian, Disassemblers & Recyclers Assoc.

APPEARING ON WHICH PROPOSAL: S.B. 113

DO YOU: SUPPORT? _____ AMEND? x OPPOSE? _____

COMMENTS: The Association submits that the stricken language on line 12, page 93 results in a substantive change of law. The stricken language should be re-inserted. The sheriff should have the power to remove abandoned vehicles from private property. Many cars are abandoned along side county ~~roads~~ roads, but on private property, such as farm or ranch land. The rancher, farmer or other landowner should be able to call the sheriff and have the car removed

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: GERALD F. RAUNIG DATE: 1-25-79

ADDRESS: HELENA, MONT. 501 N. SANDERS

PHONE: 442-1233

REPRESENTING WHOM? MONTANA AUTO DEALERS ASSOCIATION

APPEARING ON WHICH PROPOSAL: SB 160

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

