

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION COMMITTEE
MONTANA STATE SENATE

February 8, 1979

The Fourteenth 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 1:00 p.m.

ROLL CALL: All members of the committee were present with the exception of Senator Hazelbaker.

CONSIDERATION OF SENATE BILL 113: Dave Cogley from the Legislative Council explained the three amendments to Senate Bill 113 to the committee members. He passed out information pertaining to the 1st amendment (Exhibit "A").

William Romine told the committee that DWI requires that a person be in the act of physical control. He said you can be picked up for DWI for just being in the car, with the keys in your pocket, sleeping, sitting, etc. It does not matter if you are not in control of the car.

Senator Kolstad said he questioned that.

Mr. Romine said it has happened in Montana and is on the books.

Dave Cogley told the committee a man was arrested in Kalispell and was charged with DWI and the courts dismissed the charge, because he was in his driveway. There is confusion and it does exist.

Chairman Etchart told the committee he thought Senator Hazelbaker's Amendment No. 2 is a substantive change and that it should not be included in the amendments to this bill.

Senator Hager made the motion to DO PASS Amendments 1 and 3. The motion carried unanimously.

Senator Graham moved to DO PASS AS AMENDED Senate Bill 113. The motion carried unanimously. Senator Graham will carry the bill with Senator Hager's help.

COMMITTEE BILL: Senator Hager made the motion that the Highway and Transportation Committee introduce a bill known as LC 1866/01 as a Committee Bill. It is an act to provide for the removal and disposal of abandoned motor vehicles on private property; amending sections 61-8-356 and 61-12-401, MCA.

The motion carried unanimously to DO PASS the committee bill.

CONSIDERATION OF HOUSE BILL 69: Ed Lien, Chief Sponsor of House Bill 69, told the committee this is an act to amend Sections 69-12-321 and 69-12-322, MCA, to clarify the notice requirements for hearings on applications for motor carrier certificates. This just reduces the noticing procedures and allows them not to notify people who are not connected with the hearing. He introduced Wayne Budt from the Public Service Commission.

Wayne Budt, Public Service Commission told the committee the bill will take away the requirement that says we have to notice railroads on something like a cab company's hearing. This will reduce the noticing cost.

Larry Huss from the Montana Motor Carriers Association said the bill does not accomplish everything that the Public Service Commission and the Motor Carriers Association thought it did. This bill also permit the Public Service Commission to go ahead and grant certificates. He asked the committee to consider the following amendments:

1. Page 1, lines 17 through 19.
Following: "shall" on Line 17
Strike: "Fix a time and place for hearing thereof, which shall not be less than 10 days or more than 60 days after the filing"
Insert: "give notice thereof to any interested party"

Mr. Huss read the bill as it would be amended to the committee. This would permit giving notice of the application so that other carriers would have the opportunity to protest. Notice of the time and date for hearing would be sent to all interested parties. Interested parties are defined in subsection 2.

Senator Kolstad asked Mr. Huss if this was agreeable with

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Mr. William Opitz.

Mr. Opitz, replied, Yes.

Senator Hager asked Mr. Huss what less than 10 days and more than 60 refers to.

Mr. Huss replied it is the time to set hearing.

Chairman Etchart asked if someone did protest, is there a provision in the law that the hearing would be granted.

Mr. Huss said, Yes, in Section 2.

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

CONSIDERATION OF HOUSE BILL 66: Representative Cooney, District 83, Butte, told the committee he was asked to carry House Bill 66 by the Department of Public Service Regulation. This is an act to amend section 69-12-323, MCA, to amend the time period within which the public service commission is required to make decisions on motor carrier certificate applications. He then read Section 1, line 12 through 19 to the committee. (Please refer to bill.) The Department needs to have this extra time to make the final decision, transcription, file briefs, etc. He introduced Wayne Budt from the PSC.

Wayne Budt, Public Service Commission told the committee if there are protests, it will be set for hearing. Final decisions come from the commission within 180 days. There are some, such as statewide application for building materials that can take more time to get done. We need to expand that deadline, so that people who need extra time, due to illness, etc. can have more time.

Chairman Etchart asked if there were any other proponents.

Larry Huss, Montana Motor Carriers told the committee they support this bill with the amendments that are included by the PSC.

Chairman Etchart asked if there were any opponents. There were none. He asked the committee if they had any questions.

Senator Kolstad asked if the time limit only applied if the applicant asked for it.

Representative Cooney, said yes, 180 days plus applicant's request.

Senator Kolstad asked him if the applicant request more time, then it is an open end thing.

Representative Cooney said he would have to state a date for the dealine.

There being no further questions, the hearing was closed.

ACTION ON HOUSE BILL 66:

Senator Kolstad made the motion that House Bill 66 be concurred in.

The motion carried unanimously. Senator Kolstad will carry the bill on the floor of the Senate.

ACTION ON HOUSE BILL 69:

Senator Hager made the motion to adopt the amendments to House Bill 69. The motion carried unanimously.

Senator Hager made the motion that House Bill 69 be concurred in as amended. The motion carried unanimously.

Senator Hager will carry the bill on the floor of the Senate.

CONSIDERATION OF SENATE BILL 304: Chairman Etchart reported he had some problems with this bill, but in checking it out he did not think it would hurt any of the key pump operations in his area. He called Glasgow and found out that the people paid for gas tax when the gas was delivered off the gas trucks and put into the holding tanks. They then pass the tax onto the customers when they buy gas. These people have both retail and wholesale licenses. I see no problem with this bill.

ACTION ON SENATE BILL 304: Senator Graham made the motion to DO PASS Senate Bill 304. The motion carried unanimously. Senator Etchart will carry the bill on the floor of the Senate.

CONSIDERATION AND ACTION ON SENATE JOINT RESOLUTION 7: Chairman Etchart asked the secretary to hold SJR 7 for awhile, until a decision could be made about handling it. The new Senate Resolution draft was passed out to the committee members.

Senator Hager made the motion to introduce this as a Senate Resolution by the Highway Committee. The motion carried unanimously. Senator McCallum will carry this bill. Senator Etchart will introduce the bill on the floor of the Senate.

OTHER BUSINESS: There being no other business the meeting adjourned at 1:45 p.m. There will be no meeting on Saturday.

Mark Etchart

SENATOR MARK ETCHART, CHAIRMAN

NAME: LARRY HASS DATE: 2/8/77

ADDRESS: 107 7th

PHONE: 442-8070

REPRESENTING WHOM? Mont Motor Carriers

APPEARING ON WHICH PROPOSAL: A/B 66

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: William J. Opitz DATE: 2/8/79

ADDRESS: 2 Wood Ct. Helena, Mont.

PHONE: 449-3007

REPRESENTING WHOM? M PSC

APPEARING ON WHICH PROPOSAL: HB-69

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: The Commission supports the proposed amendment to HB-69 presented by Larry Hass of the Motor Carrier Assoc.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: William J. Opitz DATE: 2/8/79

ADDRESS: 2 Wood Ct Helena, Mont

PHONE: 449-3007

REPRESENTING WHOM? MPSC

APPEARING ON WHICH PROPOSAL: HB-66

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

COMMENTS: The bill would allow an applicant to request an additional time for the Commission to render a decision beyond 180 days. @ The sickness may be an example of the need.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Wayne Budd DATE: 2/8/79

ADDRESS: 1227 11th Ave

PHONE: 449-2549

REPRESENTING WHOM? Mont Public Service Comm

APPEARING ON WHICH PROPOSAL: H B 66

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: Time for transcript
Time to file briefs by all parties

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Wayne W Budd DATE: 2/8/79

ADDRESS: 1227 11th Ave

PHONE: 449-2549

REPRESENTING WHOM? Mont Public Service Comm

APPEARING ON WHICH PROPOSAL: HB 69

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

COMMENTS: Reduce Noticing Costs

Railroad not interested in Cab/bus line, etc
Will Notice Dept of Highways on any
that are requested

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

February 8, 1979

Shaun Simon
Legislative Council
Capitol Building
Helena, MT 59601

Dear Shaun:

Enclosed is a draft of a Senate Resolution.

The Senate Committee of Highways and Transportation voted unanimously on February 8, 1979 to have this Resolution made into bill form and introduced on behalf of the Senate Committee on Highways and Transportation.

Sincerely,

SENATOR MARK ETCHART
Montana State Senate

Enclosure

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SENATE RESOLUTION NO. _____

INTRODUCED BY _____

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA DIRECTING THE DEPARTMENT OF HIGHWAYS TO CONDUCT AN INTERIM STUDY TO INVESTIGATE THE LACK OF CONSISTENCY IN WORK QUALITY AMONG THE SEVERAL HIGHWAY MAINTENANCE SECTIONS OF THE STATE DEPARTMENT OF HIGHWAYS.

WHEREAS, good highways must be well maintained to be safe for the motoring public; and

WHEREAS, routine highway maintenance functions are performed and supervised in small organizational units known as sections; and

WHEREAS, there is evidence that there is a wide variance in the quality of routine maintenance work among the several sections; and

WHEREAS, there is evidence that there is a wide variance in the quality of routine maintenance work among the several sections; and

WHEREAS, this condition indicates possible lax management or other serious management problems that require correction if public safety is to be served.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Department of Highways conduct an interim study to investigate the management problems of the Maintenance Division of the Department of Highways and report its findings and recommendations to the regular session of the 47th Legislature.

-END-

SENATE COMMITTEE Highways & Transportation

Date 2-8 Senate Bill No. 11.3 Time _____

NAME	YES	NO
Mark Etchart, Chairman	/	
Tom V. Hager, Chairman	/	
Frank W. Hazelbaker		
Allen C. Kolstad	/	
Carroll A. Graham	/	
Dave Manning		
John E. Healy	/	

Carol Trassler
Secretary

Mark Etchart
Chairman

Motion: Do Pass as amended - See attached
(Secret Reading Bill)

(include enough information on motion--put with yellow copy of committee report.)

AMENDMENTS TO SENATE BILL 113, SECOND READING:

1. Page 18, line 2.

Following: "capacity"

Insert: "or G.V.W. if imprinted on license plate"

~~2. Page 69, line 14.~~

~~Following: "vehicles"~~

~~Strike: "upon the highways of"~~

~~Insert: "within"~~

3. Page 93, lines 5-22.

Strike: Section 93 in its entirety

Renumber: all subsequent section

SECOND READING BILL BE AMENDED AS FOLLOWS:

B113 Extra A

Section 9. **Act Controlling.** Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling.

Act controlling.

Section 10. **Repeal.** All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 11. **Effective Date.** This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved March 9, 1957.

CHAPTER 194

An Act to Amend Section 39 of Chapter 263 of the Session Laws of the Thirty-fourth Legislative Assembly of the State of Montana, 1955, Relating to Persons Operating Motor Vehicles While Under the Influence of Intoxicating Liquor or of Drugs; Providing for the Use of Chemical Analysis to Measure the Degree of Intoxication of Drivers; Increasing Minimum Fine for First Offense, Making Imprisonment Mandatory for Second or Third Offenses, of Driving Under the Influence of Intoxicating Liquor or of Drugs; Providing That Revocation of License Will Commence Upon Date of Conviction; Repealing All Acts and Parts of Acts in Conflict Herewith; Providing for Effective Date of Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 39 of chapter 263 of the session laws of the thirty-fourth legislative assembly of the State of Montana, 1955, be, and the same is hereby amended to read as follows:

Amending clause.

"Section 39. **Persons Under the Influence of Intoxicating Liquor or of Drugs.**

Driving or control under influence forbidden.

"(a) It is unlawful and punishable as provided in paragraph (d) of this section for any person who is under the influence of intoxicating liquor to drive or be in actual physical control of any motor vehicle upon the highways of this state.

NAME: LARRY HUSS DATE: 2/8/79

ADDRESS: 107 7th

PHONE: 442-2179

REPRESENTING WHOM? Hart Moore Critics

APPEARING ON WHICH PROPOSAL: SB 69

DO YOU: SUPPORT? X AMEND? X OPPOSE?

COMMENTS: Amend Section 1, Page 1, Line 17
Following: "shall"
Strike: "for a time and place for hearing thereon"
Insert: "GIVE NOTICE THEREOF TO ANY INTERESTED
PARTY: Strike the remaining language of subsection
Line 18: Following: "which"
Insert: "notice"
Following: "~~shall~~" shall not be.
Strike: "less than 10 days or more
than 60 days after the filing"

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE COMMITTEE Highways & Transportation

Date 2-8-79 Hansen Bill No. 69 Time _____

NAME	YES	NO
Mark Etchart, Chairman	✓	
Tom V. Hager, Chairman	✓	
Frank W. Hazelbaker		
Allen C. Kolstad	✓	
Carroll A. Graham	✓	
Dave Manning	✓	
John E. Healy	✓	

Carl Hansen
Secretary

Chairman

Motion: Do PASS AS Amended =
See Book See Attached

(include enough information on motion--put with yellow copy of committee report.)

Amendment to House Bill No. 69

1. Page 1, lines 17 through 19..

Following: "shall" on line 17

Strike: "Fix a time and place for hearing thereon, which shall not be less than 10 days or more than 60 days after the filing."

Insert: "give notice thereof to any interested party"

SENATE COMMITTEE Highways & Transportation

Date 2-8-79 House Bill No. 696 Time _____

NAME	YES	NO
Mark Etchart, Chairman	✓	
Tom V. Hager, Chairman	✓	
Frank W. Hazelbaker		
Allen C. Kolstad	✓	
Carroll A. Graham	✓	
Dave Manning		
John E. Healy	✓	

Carol Fraser
Secretary

Mark Etchart
Chairman

Motion: Go Pass

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE Highways & Transportation

Date 2-8-79 Senate Bill No. 304 Time _____

NAME	YES	NO
Mark Etchart, Chairman	✓	
Tom V. Hager, Chairman	✓	
Frank W. Hazelbaker		
Allen C. Kolstad	✓	
Carroll A. Graham	✓	
Dave Manning		
John E. Healy	✓	

Carol Francis
Secretary

Mark Etchart
Chairman

Motion: Do Pass

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

February 8 19 79

MR. **President:**

We, your committee on **Highways and Transportation**

having had under consideration **House** Bill No. **69**

Respectfully report as follows: That **HOUSE** Bill No. **69**

introduced bill no. 69 be amended as follows:

1. Page 1, lines 17 through 19.

Following: "shall" on line 17

Strike: "Fix a time and place for hearing thereof, which shall not be less than 10 days or more than 60 days after the filing"

Insert: "give notice thereof to any interested party"

And, as so amended,

DO PASS

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STANDING COMMITTEE REPORT

.....February 8..... 19 79.....

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

We, your committee on.....**Highways and Transportation**.....

having had under consideration**House**..... Bill No. **65**.....

Respectfully report as follows: That.....**House**..... Bill No. **66**.....

DO PASS

.....
SENATOR MARK ETCHART Chairman.

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STANDING COMMITTEE REPORT

February 8 19 79

MR. **President:**

We, your committee on **Highways and Transportation**

having had under consideration **Senate** Bill No. **304**

Respectfully report as follows: That **Senate** Bill No. **304**

DO PASS

STANDING COMMITTEE REPORT

February 8, 19 79

MR. **President:**

We, your committee on **Highways and Transportation**

having had under consideration **Senate** Bill No. **113**

Respectfully report as follows: That **Senate** Bill No. **113**

second reading bill be amended as follows:

1. Page 18, line 2.

Following: "capacity"

Insert: "or G.V.W. if imprinted on license plate"

2. Page 93, Lines 3-22.

Following: "93."

Strike: Remainder of line 3 thru line 22 in their entirety

Renumber: All subsequent section

And, as so amended

DO PASS