

MINUTES OF THE MEETING
Highways and Transportation Committee
Montana State Senate

March 10, 1979

The Twenty-third meeting of the Highways and Transportation Committee was called to order by the Chairman, Senator Mark Etchart, in Room 410 of the State Capitol Building at 1:00 P.M. on March 10, 1979.

ROLL CALL: All members were present except Senator Manning, who was excused.

CONSIDERATION OF SENATE JOINT RESOLUTION 31: Senator Hafferman from District 11 introduced SJR 31. This is a joint resolution of the Senate and the House of Representatives of the State of Montana requesting the legislative committee on priorities to assign a study of the need for G.V.W. law enforcement employees of the Department of Highways to carry firearms. He told the committee these people have to make arrests. They do not carry weapons. He related a story from his own experiences regarding the verbal abuse given to an operator by two husky men. I think if they were allowed to carry firearms, they would not have this problem. I do not think we should have our people subjected to rudeness. I have other people here to testify on this resolution and turn it over to them at this time.

James V. Roscoe, Lincoln County, told the committee he is a GVW Enforcement Officer for the State of Montana and works as a base officer. As a condition of our employment, we are required to attend the academy at Bozeman and completely familiarize ourselves with firearms. We go through a 3 month training program with GVW and we are put alone in a weigh station, with a badge and a uniform and told to uphold the laws of GVW operations. I believe that the training program the State has set up qualifies us to carry firearms for self-protection. I understand there are about 2,500 citations issued by about 50 GVW operators in the state of Montana, weekly. We are sitting there without any protection. The only protection we have is the telephone, and they can pull the phone out leaving you at their mercy. We collect money. On the Interstate, it is not unusual to have a \$1,000 cash sum and no radio or assistance. The man is a sitting target. He is helpless, having just his two hands and is upholding the laws that the Legislature makes.

Bob Case, Lincoln County, Troy, told the committee this boils down to one question. Does the State educate their people well enough to carry firearms. I think the State says yes. Through the Academy, these people are ready. If the state says these people are exempt, why? Is their program not good enough. I am in favor of the Department of Highways issuing these people firearms and giving them full advantage of the police officer. I think I can speak for these men, as a policeman at one time, on many occasions, if I had not had a sidearm, my outcome would have been questionable.

These gentlemen are out there all by themselves, and they need something. They need a firearm to be able to fall back on, if necessary.

Frank Murphy, Silver Bow County, GVW covering Butte, Drummond and Lima. He told the committee he weigh's trucks by means of a portable scale. He weigh's all the back roads. We find, on these roads, people who are trying to avoid the regular weigh stations. Some of these people are pretty tough characters. We are equiped with radio's. Also, we have on quite a few occasions been asked to aid other officers. I was in Lima and the Deputy Sherif came out to the scale and asked I assist him. I had specific orders that I could not handle a weapon. In spite of this I was being ordered to help him in any way that I could. This is the kind of problems we are looking at. The Highway Department has made us police officers as such and we should be able to protect others and ourselves in any matter that comes up.

Chairman Etchart asked if there were any opponents to SJR 31.

Larry Huss, Montana Motor Carriers Association told the committee the question is not whether they are trained, but whether they need the firearms. They are not dealing in an area where they are dealing in traffic violations. Any time you start putting guns on people you are apt to raise threshold of violence. I do not think the state should encourage this problem. This law went into effect in 1971 and during the eight year span that has passed, there has been no violence or problems. This goes back to Senator Healy's old saying, "if it is not broke, don't fix it."

Ron Richards, Department of Highways, told the committee they neither support or oppose the resolution. However, I would like to point out several items. What these gentlemen are objecting to refers to a memorandum of May 10 of last year stating they shall not carry firearms. This simply alleviates the possibility of someone being hurt. It is a question of \$1,000 or death. I say give them the \$1,000. There is no question that these employees do run across some rough characters. We have not had any incidents. The responsibility of these officers are limited. However, if the committee should recommend a study, I think they will find these facts out.

In closing, Senator Hafferman said Mr. Richards made a very good presentation. This bill just asks for a study. It could be incorporated with another study of the Legislative Council and we could get down to the nuts and bolts of the situation. That is all we ask.

Chairman Etchart asked the Committee if they had any questions.

Senator Hazelbaker asked Mr. Murphy how long the course at LEA was.

Mr. Murphy told him 6 weeks.

Senator Hazelbaker said he thought that was good training.

Senator Graham asked Ron Richards about incidents during the last 8 years.

Mr. Richards said there have been no incidents in the past 8 years.

Senator Graham asked Mr. Richards about the responsibility and obligation the GVW men are under when they are in charge of money they collect as fines.

Mr. Richards told the committee the department encourages daily deposits of the money. If it is in a remote location, the man can take the money home each day and keep it there until it can be deposited.

Senator Graham told the committee he has received many complaints from the weigh station people about holding the money.

Mr. Richards told the committee he knows it is not good. They have a new program enforcing the deposit of money now. He also told the committee there are radio's in the cars, but not in the station itself. I think it is unusual to find excessive amounts of money at the weigh station. The security of money and life is what the real issue is. I don't think the risk of loosing the money is that important. The absence of firearms is in the best interest of the employee. The department will help with the study if the committee so desires.

Senator Hazelbaker, read 61-12-103 from the Montana Code: "Law says they may carry firearms if officially attired."

Mr. Richards said yes. The key word is may. May means it is the discretion of the department.

Senator Hazelbaker said that cleared it up for him.

There being no further questions, the hearing was closed on SJR 31.

CONSIDERATION OF HOUSE BILL 19: Representative Manning, District 35, Chief Sponsor of the bill, introduced this by request of the Department of Public Service Regulation. It is a bill for an act entitled: "An act to amend section 69-12-108, MCA, to reduce the minimum penalty fee for subsequent offense violations by motor carriers." This deals with the minimum penalty fee. At the present time it calls for \$100. They want to reduce this, because many times the subsequent offence might be two or three years later.

Wayne Budt, PSC, told the committee this is a bill to reduce the minimum fine for each subsequent violation by motor carriers from \$100 to \$25. Some offenses do not require a \$100 fine for the second offense. Such as: a) Vehicle registration; and b) some safety offenses (i.e. Medical and Log Books).

Larry Huss, Montana Motor Carriers Association, told the committee they support this legislation. The present fine schedule has been a sore point. We support to reduce to the \$25 level, this permits the PSC to use their discretion. We think this is a good piece of legislation and recommend a DO PASS.

Chairman Etchart asked Mr. Budt how many violations they run into that creates a problem.

Mr. Budt indicated about 2,200 tickets written, but has no break down. He told Chairman Etchart he could get the figures.

There being no further questions from the committee, the hearing was closed on House Bill 19.

CONSIDERATION OF HOUSE BILL 850: Representative Cooney, informed the committee this is an act to further prohibit the littering of highways and increase the penalty for littering; amending section 61-8-365, MCA. It is a very simple bill and it is short. It basically does two things. On line 12, it inserts "paper" to the definition under things that are under the highway litter act. On line 24, "(4) A person convicted of violating this section shall be fined not less than \$50, ~~or be imprisoned in the county jail for any term not to exceed 6 months or both.~~" We went over this carefully in the House. The House felt the 6 month jail section was a little stiff. We are not talking about the people who are driving down the street and the driver throws a gum wrapper out in the street. That would be up to the discretion of the Highway Patrol. What he would more than likely do is remind the people they are breaking the law by doing this. We are talking about industrial boxes and big boxes of paper on back of trucks, that could blow off. This is a serious problem, even with smaller boxes of paper.

Chairman Etchart asked Representative Cooney what the difference was between this and the present litter law.

Representative Cooney said this bill is basically the litter law with two additions.

Shaun Simon, Legislative Council Representative for the Committee, asked about the maximum fine.

Representative Cooney indicated the maximum fine was stated elsewhere in the Code.

Ms. Simon recommended some amendments to cover the maximum fine.

ACTION ON SENATE JOINT RESOLUTION 31: Senator Hager made the motion to DO PASS SJR 31. The committee voted unanimously to DO PASS SJR 31. The motion carried. Senator Hafferman carries on floor.

ACTION ON HOUSE BILL 19: Senator Hager made the motion that House Bill 19 Be Concurred In. The committee voted unanimously that House Bill 19 Be Concurred In. The motion carried. Sen. Hager carries.

ACTION ON HOUSE BILL 850: The following amendments were submitted by Shaun Simon, Legislative Council Attorney representing the Committee on Highways and Transportation:

Page 2, line 1.

Following: "beth."

Insert: "Except for the minimum fine of \$50 as provided in this subsection, the penalty provisions of 61-8-711 apply to this section."

Senator Hazelbaker made the motion that the committee concur in the amendments to House Bill 850. The committee voted unanimously to concur in the amendments to House Bill 850. The motion carried.

Senator Hazelbaker made the motion that House Bill 850 Be Concurred in as amended. The committee voted unanimously that House Bill 850 Be Concurred in as amended. The motion carried. Senator Hazelbaker will carry on the floor of the Senate.

ACTION ON HOUSE JOINT RESOLUTION 41: Senator Hager made the motion to table HJR 41. The committee voted unanimously to table HJR 41. The motion carried.

ACTION ON HOUSE JOINT RESOLUTION 43: Kenneth D. Clark, United Transportation Union submitted the following amendments to the committee on behalf of Representative Roth and Yardley:

1. Page 3.

Following: line 4

Insert: "BE IT FURTHER RESOLVED, that the Legislature supports the expansion of markets for Montana products including but not limited to agricultural and forest products and coal resources and other minerals.

BE IT FURTHER RESOLVED, that priority consideration for maintaining the Milwaukee Road is required to facilitate movement of such products and associated services.

2. Page 3.

Following: Line 12

Insert: "BE IT FURTHER RESOLVED, that copies of this resolution be sent by the Secretary of State to the President of the United States Senate, the Speaker of the United States House of Representatives, each member of Montana's Congressional Delegation, The Secretary of the Department of Transportation, the bankruptcy court in the Milwaukee Road case, and to the trustee of the Chicago, Milwaukee, St. Paul, and Pacific Railroad attesting the adoption of this joint resolution by the 46th Legislature of the State of Montana."

Senator Hager made the motion to concur in the amendments to HJR 43. The committee voted unanimously to concur in the amendments to HJR 43. The motion carried.

Senator Hazelbaker made the motion that HJR 43 be concurred in as amended. The committee voted unanimously that HJR 43 be concurred in as amended. The motion carried.

The request was made that Representative Yardley's name be put on HJR 43, after Representative Roth's.

OTHER BUSINESS: There being no further business of the Highways and Transportation Committee the hearing adjourned. The next meeting of the committee will be March 13, 1979, Tuesday, at 1:00 p.m. in Room 410 of the State Capitol Building.

Mark Etchart

SENATOR MARK ETCHART

VISITORS' REGISTER

| NAME | REPRESENTING | BILL # | Check Off | |
|-----------------------------|---------------------------|-------------------------|-------------------------------------|------|
| | | | Support | Opps |
| <i>John McHugh</i> | <i>Hydeco</i> | <i>SJR 31</i> | | |
| <i>Ron [unclear]</i> | <i>"</i> | <i>SJR 31</i> | | |
| <i>Mike [unclear]</i> | <i>Dist 83</i> | <i>HR 850</i> | <input checked="" type="checkbox"/> | |
| <i>Senator W. [unclear]</i> | <i>Dist 11 Senate</i> | <i>SJR 31</i> | <input checked="" type="checkbox"/> | |
| <i>James V. [unclear]</i> | <i>Lincoln County</i> | <i>SJR 31</i> | <input checked="" type="checkbox"/> | |
| <i>Frank Murphy</i> | <i>Silver Bell County</i> | <i>SJR 31</i> | <input checked="" type="checkbox"/> | |
| <i>Bob Case</i> | <i>Lincoln Co.</i> | <i>SJR 31</i> | <input checked="" type="checkbox"/> | |
| <i>Chuck [unclear]</i> | <i>" "</i> | <i>CTR 31</i> | <input checked="" type="checkbox"/> | |
| <i>Sharon [unclear]</i> | <i>" "</i> | <i>" "</i> | <input checked="" type="checkbox"/> | |
| <i>Bob [unclear]</i> | <i>PSC</i> | <i>HR 19 SJR 31</i> | <input checked="" type="checkbox"/> | |

NAME: RON RICHARDS DATE: 3/10/79

ADDRESS: 11006

PHONE: 449-2482

REPRESENTING WHOM? DEPT HIGHWAYS

APPEARING ON WHICH PROPOSAL: SJR 31

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Wayne Budd DATE: 3-10-7

ADDRESS: 1227 11th Ave

PHONE: 249-2549

REPRESENTING WHOM? Mont Public Service Comm

APPEARING ON WHICH PROPOSAL: HB 19

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: Attached -

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

H.B. 19

BILL TO REDUCE THE MINIMUM FINE FOR EACH SUBSEQUENT VIOLATION
BY MOTOR CARRIERS FROM \$100 TO \$25.

1. Some offenses do not require a \$100 fine for the second offense.
 - a. Vehicle registration
 - b. Some safety offenses (i.e. Medical and log books)

NAME: Larry Huss DATE: 3/10/79

ADDRESS: 107 7th

PHONE: 442-8070

REPRESENTING WHOM? MONTANA MOTOR CARRIERS ASSN

APPEARING ON WHICH PROPOSAL: HB 19

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: LARRY HESS DATE: 2/10/79

ADDRESS: 107 7th

PHONE: 442-8070

REPRESENTING WHOM? MONTANA MOTOR CARRIERS ASSOC.

APPEARING ON WHICH PROPOSAL: SSR 31

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

AMENDMENTS TO HOUSE JOINT RESOLUTION NO. 43
Representative Roth

OK

1. Page 3.

Following: line 4

Insert: "BE IT FURTHER RESOLVED, that the Legislature supports the expansion of markets for Montana products including but not limited to agricultural and forest products and coal resources and other minerals.

BE IT FURTHER RESOLVED, that priority consideration for maintaining the Milwaukee Road is required to facilitate movement of such products and associated services."

2. Page 3.

Following: line 12

Insert: "BE IT FURTHER RESOLVED, that copies of this resolution be sent by the Secretary of State to the President of the United States Senate, the Speaker of the United States House of Representatives, each member of Montana's Congressional Delegation, the Secretary of the Department of Transportation, the bankruptcy court in the Milwaukee Road case, and to the trustee of the Chicago, Milwaukee, St. Paul and Pacific Railroad attesting the adoption of this joint resolution by the 46th Legislature of the State of Montana."

Proposed amendment to House Joint Resolution 41

BE IT FURTHER RESOLVED, that the Legislature supports the expansion of markets for Montana products including but not limited to agricultural and forest products and coal resources and other minerals.

BE IT FURTHER RESOLVED, that priority consideration for maintaining the Milwaukee Road is required to facilitate movement of such products and associated services.

BE IT FURTHER RESOLVED, that the Legislature commends and supports the efforts of private citizens and private groups such as SORE (Save Our Railroad Employment) to maintain the Milwaukee Road.

BE IT FURTHER RESOLVED, that the Legislature urges the Congress of the United States to continue to expand federal programs and assistance designed to revitalize and rehabilitate the nation's rail transportation system.

BE IT FURTHER RESOLVED, that copies of this resolution be sent by the Secretary of State to the President of the United States Senate, the Speaker of the United States House of Representatives, each member of Montana's Congressional Delegation, the Secretary of the Department of Transportation, the bankruptcy court in the Milwaukee Road case, and to the trustee of the Chicago, Milwaukee, St. Paul and Pacific Railroad attesting the adoption of this joint resolution by the 46th Legislature of the state of Montana.

Proposed amendment to House Joint Resolution 41, February 1924

BE IT FURTHER RESOLVED, that the Legislature supports the expansion of markets for Montana products including but not limited to agricultural and forest products and coal resources and other minerals.

BE IT FURTHER RESOLVED, that priority consideration for maintaining the Milwaukee Road is required to facilitate movement of such products and associated services.

BE IT FURTHER RESOLVED, that the Legislature commends and supports the efforts of private citizens and private groups such as SORE (Save Our Railroad Employment) to maintain the Milwaukee Road.

BE IT FURTHER RESOLVED, that the Legislature urges the Congress of the United States to continue to expand federal programs and assistance designed to revitalize and rehabilitate the nation's rail transportation system.

BE IT FURTHER RESOLVED, that copies of this resolution be sent by the Secretary of State to the President of the United States Senate, the Speaker of the United States House of Representatives, each member of Montana's Congressional Delegation, the Secretary of the Department of Transportation, the bankruptcy court in the Milwaukee Road case, and to the trustee of the Chicago, Milwaukee, St. Paul and Pacific Railroad attesting the adoption of this joint resolution by the 46th Legislature of the state of Montana. 1)

H.B. 19

BILL TO REDUCE THE MINIMUM FINE FOR EACH SUBSEQUENT VIOLATION
BY MOTOR CARRIERS FROM \$100 TO \$25.

1. Some offenses do not require a \$100 fine for the second offense.
 - a. Vehicle registration
 - b. Some safety offenses (i.e. Medical and log books)

Amendments to House Bill 850

Page 2, line 1.

Following: "both."

Insert: "Except for the minimum fine of \$50 as provided in this subsection, the penalty provisions of 61-8-711 apply to this section."

STANDING COMMITTEE REPORT

March 10

19 79

MR. President:

We, your committee on Highways and Transportation

having had under consideration House Bill No. 850

Cooney (Hazelbaker)

Respectfully report as follows: That House Bill No. 850

third reading bill be amended as follows:

1. Page 2, line 1.

Following: "beth."

Insert: "Except for the minimum fine of \$50 as provided in this subsection the penalty provisions of 61-8-711 apply to this section."

And, as so amended,
BE CONCURRED IN

~~DO PASS~~

STANDING COMMITTEE REPORT

March 10

19 79

MR. President:

We, your committee on Highways and Transportation

having had under consideration House Bill No. 19

Manning (Hager)

Respectfully report as follows: That HOUSE Bill No. 19

BE CONCURRED IN
DEPASS

STANDING COMMITTEE REPORT

..... March 10 19 79

MR. President:

We, your committee on Highways and Transportation

having had under consideration Senate Joint Resolution Bill No. 31

Hafferman

Respectfully report as follows: That Senate Joint Resolution Bill No. 31

DO PASS

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STANDING COMMITTEE REPORT

March 10

1979

MR. President:

We, your committee on Highways and Transportation

having had under consideration House Joint Resolution Bill No. 43

Respectfully report as follows: That House Joint Resolution Bill No. 43

third reading bill be amended as follows:

1. Page 3.

Following: line 4

Insert: "BE IT FURTHER RESOLVED, that the Legislature supports the expansion of markets for Montana products including but not limited to agricultural and forest products and coal resources and other minerals.

BE IT FURTHER RESOLVED, that priority consideration for maintaining the Milwaukee Road is required to facilitate movement of such products and associated services."

EN PASS

SENATE COMMITTEE Highways & Transportation

Date 3-10 Have Bill No. 858 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 | ✓ | |
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Carol Fraser
Secretary

Mark Etchart
Chairman

Motion: Be Concurred In as Amended

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

SENATE COMMITTEE Highways & Transportation

Date 3-10 House Bill No. 19 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 | / | |
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Carol Francis
Secretary

Mark Etchart
Chairman

Motion: _____
Be Concurred In

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

SENATE COMMITTEE Highways & Transportation

Date # 3-10-79 SJR Bill No. 31 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 | ✓ | |
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Carl Francis
Secretary

Mark Etchart
Chairman

Motion: Do Pass

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

SENATE COMMITTEE Highways & Transportation

Date 3-10-79 HJR Bill No. 43 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 | ✓ | |
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Carl Franer
Secretary

Mark Etchart
Chairman

Motion: Be Concurred ther as Amended

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