

MINUTES OF THE MEETING OF THE JUDICIARY COMMITTEE
January 27, 1981

The meeting of the House Judiciary Committee was called to order at 8:00 a.m. by Chairman Kerry Keyser in Room 437 of the Capitol. All committee members were present except Rep. Abrams and Rep. Anderson. (Both representatives returned to the committee after presenting bills to other committees). Jim Lear, Legislative Council, was present.

HOUSE BILL 284 REP. FABREGA, sponsor, stated this bill is to amend the motor vehicle insurance liability laws in cases where there is more than one insurance policy.

ROGER MCGLENN, Independent Insurance Agents of Montana, Incorporated, gave committee members written testimony concerning changing the word "risk" on line 11, page 6 to "vehicle". EXHIBIT 1.

PAT MELBY, Alliance of American Insurance, supports this bill. MELBY suggests to amend page 6, line 1 after "policy" inserting "with the same insurer". MELBY stated other states have adopted language limiting stacking. Some states have not allowed stacking at all, while some states allow it in contracts.

VALENCIA LANE, Insurance Department, supports this bill. She feels this will help keep insurance costs down. LANE feels the language should be clarified but did not have any amendments to offer the committee. She stated she would be happy to work some out.

NORMA SEIFFERT, Insurance Department, supports this concept. SEIFFERT stated the language should be clarified. She did not have any amendments to offer.

There were no further proponents.

MIKE MELOY, Montana Trial Lawyers Association, is opposed to the bill. MELOY feels this bill is a reaction to a Supreme Court decision. The court decided that based on the language of the policy which did not exclude stacking that you could pay the injured party the total amount of the injury from each part of money the insured had paid in to. MELOY stated there is no reason why insurance companies cannot calculate the premiums. They could provide in bold type all of the things that are listed in the amendment on page 6 of the bill. MELOY urged do not pass.

There were no further opponents.

REP. FABERGA closed the bill.

REP. HANNAH asked if the insurance companies now have the freedom to place this wording in policies. MELOY stated yes.

REP. HUENNEKENS asked if this bill would start another type of ruling of the Supreme Court. MELOY was not sure. The basis on

which the Supreme Court ruled is that you could not stack. All this bill does is authorize it to be done.

REP. FABREGA stated if he owned three cars and three people drive the cars under the same policy, did he pay the equivalent of three premiums. FABREGA understands the principle of the bill.

HOUSE BILL 359 REP. QUILICI, chief sponsor, stated this bill is setting a fee of \$25.00 for an application to carry a concealed weapon. One of the reasons for the bill is by setting a charge of \$25.00 it will help the budgets of counties. The 6 mill levy is not adequate in many cases. With the costs of investigating all this, it is a cost the counties cannot accept. The second reason is before a person puts in an application they will think twice before they have to pay a fee. Judges would like to see this because there are more and more applications to carry concealed weapons. REP. QUILICI noted Judge Olson would be a little late, but was a proponent of the bill.

There were no proponents at this time.

Opponent GEORGE PAUL has carried a permit for a concealed weapon for about four years. PAUL does not see how the cost of processing could be \$25.00 when it costs fifty cents to do it now. A \$3-4 fee is more appropriate. Paul does not believe helping out with budgets is a good reason for the fee. Many times there is a justified need for an individual to carry the weapon. Many people will carry the weapon no matter what the price is. PAUL explained the first time a person applies for a permit he goes into the sheriff's department and they check the person out. To pay \$25 each year for ten years would equal \$250.00. PAUL stated it would be cheaper to pay someone \$100 to go beat someone up.

There were no further opponents.

In closing REP. QUILICI stated he personally would not apply for a concealed weapon. The \$25 fee is not exorbitant, it is a deterrent. The judges feel this is a good bill.

REP. MATSKO asked if the fee was reimbursed if the application was denied. It was stated yes.

REP. HANNAH asked how many permits were issued per county. REP. QUILICI did not know.

REP. EUDAILY asked the sponsor if he knew there was a Senate bill which would set the fee at \$5.00. REP. QUILICI replied yes.

REP. CURTISS noted 19-5-404 on page 4 stated 40% of the fee goes to the county and 60% goes to the state. Which state agency receives the 60%? REP. YARDLEY replied the retirement system for the judges. Section 19-5-404 was read to the committee.

Proponent Judge Olson came in. The committee heard his testimony. OLSON stated there is an ever increasing demand for concealed weapons. It is becoming an increasing burden for law enforcement agencies to make the investigations. It is an extra ordinary privilege to carry a concealed weapon. Members of the law enforcement agencies are having a greater fear of people carrying concealed weapons. Twenty-five dollars is a little amount to cover the fee.

REP. TEAGUE asked what types of people want permits. OLSON replied people are generally special guards, people who are carrying money, people who say their life is in danger, and people who are guards at the state prison want weapons for when they are off duty. This increase traffic means more investigation and there should be a fee.

REP. TEAGUE asked how much time is taken up investigating a person. OLSON replied more than two hours, probably half a shift.

REP. EUDAILY stated according to the bill, if the police do the investigation there is no way the city is reimbursed since the money goes to the county and the state. OLSON stated he would recommend an amendment to reimburse the city for their part.

Since OLSON came in after the closing of the bill, GEORGE PAUL was allowed to state a few words in opposition of the bill.

PAUL felt charging people \$25.00 many people will go underground. They won't even get a permit. It might have the adverse effect the sponsors want it to have. The cost of investigation is a one time affair. On the first application there is an investigation. The next time it is just going in and having the judge sign the permit, along with paying the fee.

REP. QUILICI was allowed to reclose. He stated this was not a gun control bill.

REP. DAILY asked why people have concealed weapons. PAUL replied his family was threatened. He did go to law enforcement agencies but they told him there was nothing they could do. He carries the weapon, although not everywhere, to certain places where he feels his family would be in jeopardy.

That ended the hearing on House Bill 359.

EXECUTIVE SESSION

The House Judiciary Committee went into executive session at 9:05 a.m.

HOUSE BILL 210 REP. MCLANE moved do pass.

REP. KEEDY moved to amend page 2, line 3 striking 45-9-102(3). The amendment passed.

REP. SEIFERT moved do pass as amended.

REP. DAILY moved to amend page 2, line 1 striking 45-5-104(2). REP. DAILY stated he does not believe negligent homicide should be designated as dangerous since the person did not mean to do it. The amendment passed with REP. HANNAH, REP. MATSKO and REP. KEEDY voting no.

REP. SHELDEN asked if alcohol would be included in this bill. REP. KEEDY stated no.

REP. BENNETT stated if this bill were passed the average prison term would be increased from 18 to 22.5 months. He does not feel the bill will be cost effective. REP. KEEDY stated this bill accomplishes many things. Nondangerous classification applies in the statute if a judge does not make the distinction.

REP. MATSKO stated 24% of the people coming into the prison are repeat offenders. If this bill lengthens their stay 4 1/2 months he does not know if there is that much of an impact or not. People automatically think a new prison will have to be built.

REP. SEIFERT moved do pass as amended. The motion failed 11 to 8. Those representatives voting no were: KEYSER, SEIFERT, BENNETT, EUDAILY, IVERSON, ABRAMS, HUENNEKENS, SHELDEN, TEAGUE, YARDLEY, and BROWN. Those representatives voting yes were: CONN, CURTISS, HANNAH, MATSKO, ANDERSON, DAILY, KEEDY, and MCLANE. The vote was reversed to do not pass. Those representatives voting yes were: KEYSER, SEIFERT, BENNETT, EUDAILY, IVERSON, ABRAMS, HUENNEKENS, SHELDEN, TEAGUE, YARDLEY and BROWN. Those representatives voting no were: CONN, CURTISS, HANNAH, MATSKO, ANDERSON, DAILY KEEDY and MCLANE. House Bill 210 did not pass.

HOUSE BILL 215 REP. CONN moved do pass.

REP. ANDERSON asked if the sponsor would object to an immediate effective date. REP. KEEDY stated no.

JIM LEAR read the amendment suggestions as proposed by MIKE MELOY.

After some discussion it was decided to not use the language as proposed by MELOY.

REP. YARDLEY moved to amend the title and add a new section providing for an immediate effective date. The motion passed unanimously.

REP. CONN moved do pass as amended. The motion passed with REP. SEIFERT and REP. KEYSER voting no.

HOUSE BILL 220 House Bill 220 was continued from the 1/26/81 meeting.

REP. CONN moved to amend line 1 inserting "(4) If the ultimate distributor charges any fee for the food received from a donor or gleaner, such fact shall not deprive the donor or gleaner of the immunity provided under this section."; and to renumber the subsequent subsection.

The motion passed unanimously.

REP. CURTISS moved do pass as amended. The motion passed with REP. SEIFERT and REP. TEAGUE voting no.

HOUSE BILL 248 REP. BROWN moved do pass. REP. TEAGUE questioned if the commission as organized has the expertise to judge the judges, and would this bill be constitutional.

REP. HANNAH stated he was in favor of the bill.

REP. BROWN moved to amend page 2, line 9, striking which and inserting may. REP. MATSKO did not feel that would coincide with the title. REP. BROWN withdrew his motion.

REP. YARDLEY stated this is a constitutional amendment. The voters become very confused and don't care after a while. This bill was amended last year to take out the confidentiality.

House Bill 248 passed with a vote of 12 to 6. Those voting yes were: KEYSER, SEIFERT, BENNETT, CURTISS, HANNAH, MATSKO, ANDERSON, DAILY, KEEDY, TEAGUE, BROWN and MCLANE. Those voting no were: CONN, EUDAILY, ABRAMS, HUENNEKENS, SHELDEN and YARDLEY.

HOUSE BILL 273 House Bill 273 was continued from the 1/26/81 meeting.

REP. HANNAH moved do pass.

REP. BROWN moved to amend page 2, line 18 striking "or" and inserting "and". After some discussion REP. BROWN withdrew his

motion.

JIM LEAR gave committee members a sheet with typed amendments on it. EXHIBIT 2

REP. EUDAILY moved the amendments on the sheet be passed. REP. TEAGUE was opposed to amendment 4.

REP. CURTISS made a substitute motion to pass the first three amendments listed on the sheet and vote on the fourth amendment separately. The motion passed unanimously.

The first three amendments on the sheet were passed unanimously.

REP. HANNAH moved to accept amendment 4 as is.

REP. TEAGUE made a substitute motion to raise the amount from \$500 to \$1500. The substitute motion passed 10 to 8. Those voting yes were: KEYSER, BENNETT, CONN, DAILY, ABRAMS, HUENNEKENS, SHELDEN, TEAGUE, YARDLEY, and BROWN. Those voting no were: SEIFERT, CURTISS, EUDAILY, HANNAH, IVERSON, MATSKO, KEEDY, and MCLANE.


REP. YARDLEY moved to adopt amendment 4. The motion passed 11 to 7. Those voting yes were: KEYSER, SEIFERT, BENNETT, CONN, DAILY, ABRAMS, HUENNEKENS, SHELDEN, TEAGUE, YEARDLEY and BROWN. Those voting no were: CURTISS, EUDAILY, HANNAH, IVERSON, MATSKO, KEEDY and MCLANE.

REP. YARDLEY moved do pass as amended.

REP. CONN inquired if a youth commits a crime and has \$1500 worth of damage the first time would his name go in the paper. JIM LEAR replied absolutely.

House Bill 273 passed 12 to 6. Those voting yes were: KEYSER, BENNETT, CURTISS, EUDAILY, HANNAH, IVERSON, MATSKO, ABRAMS, HUENNEKENS, KEEDY, TEAGUE and MCLANE. Those voting no were: SEIFERT, CONN, DAILY, SHELDEN, YARDLEY, and BROWN.

The meeting adjourned at 10:30 a.m.


KERRY KEYSER, CHAIRMAN

Independent Insurance Agents of Montana
INCORPORATED



We would like to submit this amendment for your consideration,
on House Bill #284.

On page six (6) Line Eleven (11) Strike the word "RISK" and
to insert the word "VEHICLE".

Roger McGlenn

Independent Insurance Agents of Montana INCORPORATED



The limits for liability, uninsured motorist, and medical payments on the insurance contract apply to each vehicle on a per occurrence basis. Stacking of these limits, meaning the use of other vehicles limits named in the policy for one occurrence, was not figured in the premium computations nor was stacking intended.

If stacking is allowed, then the premiums to the consumer will increase, in our opinion.

Roger McGlenn

HOUSE BILL 273

1) Page 2, line 18.

Following: ";"

Strike: "or"

Insert: "(b) is accused of causing bodily injury as defined
in 45-2-101; or"

2) Page 2.

Following: line 18

Strike: "(b)"

Insert: "(c)"

3) Page 2, lines 19 and 20.

Following: "offense" on line 19

Strike: through "and" on line 20

4) Page 2, line 22.

Following: "prison"

Insert: ", as long as any pecuniary loss allegedly caused by
the youth exceeds \$500"

HOUSE JUDICIARY COMMITTEE

Date 1/27/81

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

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Date 1/27/81

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