

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION
MONTANA STATE SENATE

January 20, 1983

The meeting of the Highways and Transportation Committee was called to order by Chairman Mark Etchart on Thursday, January 20, 1983, at 1:10 p.m. in Room 410, State Capitol.

ROLL CALL: Roll was called. Present: Senator Etchart, Senator Elliott, Senator Tveit, Senator Manning, Senator Stimatz, and Senator Hager and Shaw coming in late. Absent: Senator Graham and Senator Daniels.

SENATE BILL NO. 122: Hearing commenced on Senate Bill No. 122. Senator Keating, Sponsor of Senate Bill No. 122, told the committee this bill is an exemption measure that specifically eliminates from coverage under the motor carrier act motorized carriers who complete trip or provide intermediary service in a trip that transports property by air carrier. This allows carriers to deliver shipments transported by air carrier, within the state. If a business or an individual is expecting a package by air, something other than Post Office or United Parcel Service, it has to be picked up by the recipient. As of now, the PSC licenses these common carriers for this purpose. However, there is not enough jobs to warrant the common carrier to go through the expense of obtaining a license. He does not need a license to pick up interstate, but does intrastate. This bill would exempt the common carrier from obtaining this license, so that they can provide this service.

Dave M. Fouts, Billings, representing L'Eagle Wings Delivery spoke in support of Senate Bill No. 122. Interstate air freight companies (three in Billings) sometimes carry intrastate air freight without PSC operating authority, since this transporting is hard to enforce for the PSC. If our firm heeds our own limitations imposed by the PSC, we are losing business to competitors which operate illegally. At least three legal firms in Billings have requested service to Helena and other points outside our operating authority which can only be served by air. Twice, we have had to refuse firms who requested personal courier service to Helena. Since no one else offers such service, (either due to PSC limitations or lack of desire), delivery was accomplished by more costly and inconvenient means. We have turned down service to the airport for shipments traveling by intrastate air with destinations outside our operating authority, to our own hurt. If we refuse it, the customer just gets another firm to carry it. The client does not care about the PSC regulation, he only wants service. If we refuse, he will get service elsewhere. When one is trying to build a business, it is best not to turn down requests if it can be helped.

Clients also find it difficult to understand why we can carry any interstate air freight, but only limited intrastate air freight. We are subject to fines if found carrying intrastate air freight (originating or destinating outside authority), as is anyone who does so without PSC authority. However, we are more subject to PSC scrutiny than are, say interstate air freight companies. We are a part of the regulated system, they are not.

Mr. Fouts said passage of this bill would help our firm. It would enable us to fully serve our clients to and from the airport for any shipment, thus ending confusion and loss of revenue. It would enable us to act as personal couriers by air to areas outside our regulated ground radius, especially to and from Helena, Great Falls, Missoula, and Kalispell. I can carry a package to Washington D. C., but until the law is changed, I can't even carry one to our own state capitol.

Mr. Fouts presented a letter from Holland & Hart, Attorneys at Law, Billings, in support of Senate Bill No. 122. See Exhibit 1, attached.

Senator Dave Fuller, Helena, told the committee he has a business in Helena similar to L'Eagle. I support this bill.

Wayne Budt, Montana Public Service Commission, told the committee they support this bill. The basic reason the PSC supports this bill, is that it will bring into conformity interstate and intrastate regulations. This bill will allow the carrier to come in and haul the freight from the airport. They can pick up interstate, since it's deregulation. I do want to make it clear, though, we do not regulate air transportation. We are only concerned with the local delivery service.

Senator Stimatz asked for clarification of what this bill really does.

Wayne Budt, PSC, told him the air freight has nothing to do with the bill. It is the pick up and delivery on either end. In Montana you need to have an authority to pick up and deliver within a community. This bill will change that and make the intrastate level the same as the interstate level. All we are trying to do is make them the same.

Senator Shaw asked why this law was ever on the books.

Wayne Budt, PSC, told the committee this law was put on the books in 1935, when the transportation regulation first came in. The interstate regulations were changed in 1980 by Congress.

There were no further proponents and no opponents.

There being no further discussion, hearing on Senate Bill No. 122 was closed.

SENATE BILL NO. 139: Hearing commenced on Senate Bill No. 139. Senator Marbut of Missoula County, sponsor of the bill, stated this bill expands the definition of "priority primary routes" to include high traffic sections of highways that feed the interstate system and requires that preference in designations be given to highways in a county of more than 75,000 population. The purpose is to facilitate improvement of sections of primary and secondary highways that carry heavy loads of traffic entering or exiting the interstate highways. We have a major problem in Missoula. It deals with the Reserve Street Bridge and highways on either side of it. From the interstate to the bridge it is a primary road. On the other side of the bridge it is a secondary road, which then turns into an urban road until it meets US93. This bill would change this by making it all priority primary route. We feel that Reserve Street should be a priority primary route because of the high traffic count of grain trucks using this between the interstate and US93.

Joe Aldegariq, City of Missoula, told the committee they support this bill. In particular, it has to do with the Reserve Street Bridge and highway. There just is not enough money available to do the kind of work we should be doing on our highways in Montana. This will provide us with additional monies. That way, we can take the money we have today, and put it where it will do the most good. Reserve Street in Missoula is a result of the Department of Highways. Reserve Street has been diverting traffic off the streets in town. It is for this reason that I urge you to support Senate Bill No. 139.

Gary Wicks, Department of Highways Director, spoke as an opponent to Senate Bill No. 139. He told the committee he appreciates the problem Missoula is experiencing. He said he is not in opposition in trying to do something about the problem, but this bill does not do anything to solve it. The idea of primary routes resulted from federal legislation, which allowed states to designate them. We do have some designated, such as US12 and US93. After 1976, the Federal Government did not provide any more Federal funds for these designations. This bill simply does not do anything but add further designation. There is no money coming from the Federal Government for these designations. The City of Missoula should come to

the Highway Commission with their request for primary route designation. There is certain criteria that would have to be met before the Highway Commission would redesignate Reserve Street. Only very rarely does the Commission add mileage onto the primary route system. This bill is not going to solve the problem. I appreciate the problem, but in our judgement this bill in no way helps alter that problem.

Senator Stimatz asked if Reserve Street and Orange Street are the same streets.

Senator Marbut replied no.

Senator Stimatz asked Senator Marbut to draw on the blackboard Reserve Street, Interstate and US93.

Senator Marbut made a diagram on the blackboard and explained where Reserve Street was a primary route, secondary route and urban route.

Senator Elliott asked if the Highway Commission has the authority right now to designate Reserve Street as a Primary Route.

Gary Wicks, Department of Highways Director, said yes.

Senator Marbut told the committee they have tried to have this redesignated for many years through the Highway Commission. To date, we have not been successful in doing so.

Senator Etchart asked who built the bridge.

Gary Wicks, Department of Highways Director, told the committee the Highway Department built the bridge with secondary funds.

Senator Elliott asked Joe Aldegariq if the City of Missoula has attempted to have this section of Reserve Street reclassified within the past year, through the Highway Commission.

Joe Aldegariq, City of Missoula, said he did not know for sure.

Senator Marbut, in closing, told the committee he would be very sympathetic if they could come up with any other solution.

There being no further discussion, hearing on Senate Bill No. 139 was closed.

ACTION ON SENATE BILL NO. 55: Senator Hager asked to delay taking action on Senate Bill No. 55, as Mr. Bill Romine might be able to work the language of the bill into a House Bill.

ACTION ON SENATE BILL NO. 91: Senator Shaw made a motion that Senate Bill No. 91 DO PASS. It was seconded by Senator Elliott and passed unanimously.

ACTION ON SENATE BILL NO. 106: Senator Elliott made the motion that the Committee adopt the following amendment:

Page 3.

Following: line 6

Insert: "(4) The penalties in subsection (1) do not apply to an operator who fails to secure a special permit as provided for in 61-10-107(3) if the vehicle or combination of vehicles is not overweight with such a permit. The failure to obtain the special permit is punishable under 61-10-146, and the operator is required to purchase the permit. If the vehicle or combination of vehicles exceeds the weight limitations allowed by special permit and the operator fails to obtain a permit under 61-10-107(3), the penalties of subsection (1) apply to the weight exceeding 80,000 pounds."

Renumber: The subsequent section.

It was seconded by Senator Stimatz and passed unanimously.

Senator Shaw made the motion that Senate Bill No. 106 as amended DO NOT PASS.

Senator Elliott said the interim study committee felt they had plenty of time to study the problem of who was using the highways and what the problem of highway breakup really was. This bill is directed toward any kind of violation of the law. And so, whether the penalty is \$1 or \$100, because of the nature of the problem we are dealing with, we thought it was proper. In the discussions I have had with the GVW people, they do use some discretion. I feel this bill is a step in the right direction. I feel we are sending a sign out to the truckers of Montana to obey legal weight limits. We are going to be facing this issue in other sessions.

Senator Manning stated he felt it seems awful severe for first offense. I don't know if we could have it amended or not.

Senator Hager said he sees a need for the bill, but the big problem he sees is, "No part of fine may be suspended". We are making it awfully tough and leaving no loophole

where there may be a need for one.

Senator Etchart told the committee they would hold the bill until the next meeting, when the full committee could vote.

Senator Shaw withdrew his motion to DO NOT PASS Senate Bill No. 106 as amended.

Senator Elliott asked Paul Verdon, Legislative Council, to make a review and summary of what happens to the monies collected on fines.

ACTION ON SENATE BILL NO. 122: Senator Elliott made a motion that Senate Bill No. 122 DO PASS. It was seconded by Senator Shaw and passed unanimously.

ACTION ON SENATE BILL NO. 139: Senator Shaw made a motion that Senate Bill No. 139 DO NOT PASS. The motion was seconded by Senator Stimatz. Those Senator's voting aye: Senator Etchart, Senator Hager, Senator Elliott, Senator Shaw, and Senator Stimatz. Senator Tveit had left the meeting to go to a Fish & Game Committee Meeting. Senator D. Manning voted no.

Senator Hager asked that the bill not be reported out until he had a chance to talk to Senator Marbut.

ADJOURN: There being no further business before the Committee, the meeting was adjourned at 2:30 p.m.



Senator Mark Etchart, Chairman

ROLL CALL

SENATE HIGHWAYS AND TRANSPORTATION COMMITTEE

48 ~~47~~th LEGISLATIVE SESSION -- ~~XXXX~~ 1983

Date 1/20

NAME	PRESENT	ABSENT	EXCUSED
Senator Mark Etchart, Chairman	✓		
Senator Hager, Vice Chairman		✓ late	
Senator Elliott	✓		
Senator Shaw		✓ late	
Senator Tveit	✓		
Senator Graham		✓	
Senator D. Manning	✓		
Senator Stimatz	✓		
Senator Daniels		✓	
Paul Verdon, Leg. Council	✓		
Carol Doyle Frasier, Secretary	✓		

Highways & Transportation

[illegible]

(Please leave prepared statement with Senator _____)

NAME: DAVID M. FOUTS DATE: 1-20-83

ADDRESS: 641 BURLINGTON Avenue Billings, Mont. 59101

PHONE: 406-259-4420

REPRESENTING WHOM? L'EAGLE WINGS Delivery

APPEARING ON WHICH PROPOSAL: SB 122

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: SEE ATTACHED STATEMENTS

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

HOLLAND & HART

DENVER OFFICE
SUITE 2900

555 SEVENTEENTH STREET
DENVER, COLORADO 80202
TELEPHONE (303) 575-8000
TELECOPIER (303) 575-8261

ATTORNEYS AT LAW

SUITE 1400
175 NORTH 27TH STREET
BILLINGS, MONTANA 59101
TELEPHONE (406) 252-2166
TELECOPIER (406) 252-1669

ASPEN OFFICE

600 EAST MAIN STREET
ASPEN, COLORADO 81611
TELEPHONE (303) 925-3476

WASHINGTON, D. C. OFFICE
SUITE 1200

1875 EYE STREET, N. W.
WASHINGTON, D. C. 20006
TELEPHONE (202) 466-7340
TELECOPIER (202) 466-7354

WYOMING OFFICE
SUITE 650

2020 CAREY AVENUE
CHEYENNE, WYOMING 82001
TELEPHONE (307) 632-2160
TELECOPIER (307) 778-8175

January 19, 1983

To Whom It May Concern:

It has come to our attention that there is presently a bill before the Senate (Senate Bill 122) which would deregulate intra-state air freight.

We have had occasion in the past to call on a local courier service (specifically L'Eagle Wings) to either deliver documents to the airport for expeditious delivery to another town in-state (usually Helena); or, in a few instances, to fly to another town in Montana to hand-deliver similar documents. Unfortunately, we have not been able to make use of the local couriers for these purposes because of present regulations. It has been equally frustrating that a courier is not allowed to deliver documents within Billings which arrive at the airport from an out-of-town firm.

We would like to express our encouragement to approve Senate Bill 122 for the benefit of firms like ours. We have a great need for intra-state delivery by a courier, and look forward to more efficient transport of important papers.

Very truly yours,

HOLLAND & HART


BY: Susan Strosky
Office Manager

Page 11

NAME :

DATE :

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Bill Opitz th

DATE: 1/20/83

ADDRESS: 1227 11th Ave

PHONE: 449-3008

REPRESENTING WHOM? PSC

APPEARING ON WHICH PROPOSAL: 5B-122

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE COMMITTEE HIGHWAYS AND TRANSPORTATION

Date 1/20 1983 Bill No. SB 91 Time _____

NAME	YES	NO
Senator Etchart, Chairman	✓	
Senator Hager, Vice Chairman	✓	
Senator Elliott	✓	
Senator Shaw	✓	
Senator Tveit	In Fish & Game ^{when} vote taken	
Senator Graham	absent	
Senator D. Manning	✓	
Senator Stimatz	✓	
Senator Daniels	absent	

Carol Doyle Frasier
Carol Doyle Frasier
Secretary

Mark Etchart
Senator Mark Etchart
Chairman

Motion: Senator Shaw made a motion that Senate Bill
No. 91 DO PASS. It was seconded by Senator
Elliott and passed unanimously.

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

SENATE COMMITTEE HIGHWAYS AND TRANSPORTATION

Date 1/20 1983 Bill No. SB 122 Time _____

NAME	YES	NO
Senator Etchart, Chairman	✓	
Senator Hager, Vice Chairman	✓	
Senator Elliott	✓	
Senator Shaw	✓	
Senator Tveit	In Fish & Game when Vote taken	
Senator Graham	absent	
Senator D. Manning	✓	
Senator Stimatz	✓	
Senator Daniels	absent	

Carol Doyle Frasier
Carol Doyle Frasier
Secretary

Mark Etchart
Senator Mark Etchart
Chairman

Motion: Senator Elliott made a motion that SB 122
DO PASS. It was seconded by Senator Shaw and
passed unanimously.

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

SENATE COMMITTEE HIGHWAYS AND TRANSPORTATION

Date 1/20 1983 Bill No. SB 139 Time _____

NAME	YES	NO
Senator Etchart, Chairman	✓	
Senator Hager, Vice Chairman	✓	
Senator Elliott	✓	
Senator Shaw	✓	
Senator Tveit	<i>In Fish & Game when Vote taken</i>	
Senator Graham	<i>absent</i>	
Senator D. Manning		✓
Senator Stimatz	✓	
Senator Daniels	<i>absent</i>	

Carol Doyle Frasier
Carol Doyle Frasier
Secretary

Mark Etchart
Senator Mark Etchart
Chairman

Motion: Senator Shaw made a motion that SB139
DO NOT PASS. The motion was seconded by
Senator Stimatz. 6 voting yes, 1 voting NO,
2 absent.

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

STANDING COMMITTEE REPORT

January 20 19 83

MR. **President;**

We, your committee on **HIGHWAYS AND TRANSPORTATION**

having had under consideration **SENATE** Bill No. **91**

Respectfully report as follows: That **SENATE** Bill No. **91**

DO PASS

MC

PROPOSED AMENDMENT TO SENATE BILL NO. 106

Page 3.

Following: line 6

Insert: "~~(2)~~^{do}(3) The penalties in subsection (1) shall not apply ~~where~~^{may} the operator ~~has failed~~^{who fails} to secure a special permit as provided for in 61-10-107(3) ~~so long as~~^{as} the vehicle or combination of vehicles ~~would not be~~^{would not} overweight with such a permit. The failure to obtain the special permit is punishable under 61-10-146, and the operator ~~shall be~~^{is} required to purchase the permit. If the vehicle or combination of vehicles exceeds the weight limitations allowed by special permit and the operator ~~has failed~~^{fails} to obtain ~~such~~^a permit under 61-10-107(3), the penalties of subsection (1) ~~shall~~^{will} apply to the weight exceeding 80,000 pounds."

~~(Remember the subsequent section)~~

Change made by Paul Vordon, Legislative Council

STANDING COMMITTEE REPORT

.....January 20..... 1983.....

MR. **PRESIDENT:**.....

We, your committee on**HIGHWAYS AND TRANSPORTATION**.....

having had under consideration**SENATE**..... Bill No.**122**.....

Respectfully report as follows: That.....**SENATE**..... Bill No.**122**.....

DO PASS

He

STANDING COMMITTEE REPORT

JANUARY 20

1983

MR. **PRESIDENT**

We, your committee on **HIGHWAYS AND TRANSPORTATION**

having had under consideration **SENATE**

Bill No. **139**

Respectfully report as follows: That **SENATE**

Bill No. **139**

DO NOT PASS

DO NOT PASS

mm