

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 8, 1985

The meeting of the Highways and Transportation Committee was called to order by Chairman Harp on January 8, 1985, at 3 p.m., in Room 420 of the State Capitol.

ROLL CALL: All members of the Committee were present.

CONSIDERATION OF HOUSE BILL 21: Representative Joe Quilici, District #71, sponsor of the bill, stated the bill was requested by the Department of Highways to repeal section 60-2-101, MCA, which requires the Highway Commission to meet once each month.

Representative Quilici told the Committee the bill would allow the Commission to meet whenever necessary, adding the Highway Commission agenda is not always full enough to justify monthly meetings.

PROPOSERS: Mr. Ilert Hellebust, Chairman, Montana Highway Commission, explained the present system of meeting is inefficient, since some meetings would not be necessary and the flexibility to schedule meetings near the time for construction awards would save on travel and per diem costs. He also offered written testimony (Exhibit 1) to this effect.

There were no other proponents and no opponents present. Representative Quilici made no closing remarks other than to ask committee support of the bill.

QUESTIONS FROM THE COMMITTEE: Representative Keyser asked if there would be fewer meetings during the year should the bill pass. Mr. Hellebust replied there would probably be a minimum of 8 meetings per year, adding some years there could be more than 12 meetings.

Representative Keyser asked if efficiency of the Commission would be affected. Mr. Hellebust said it would not and referred to his earlier statement wherein the bill would allow the Commission to be flexible in awarding contracts. He said this action previously was accomplished by conference calls which were not always found to prove satisfactory.

Chairman Harp stated his concern with public awareness of Commission meetings. Mr. Hellebust replied the Commission is insistent upon being a sounding board for Montana citizens and in addressing their concerns, although the Commission is short of funds and provisions.

Mr. Gary Wicks, Director, Department of Highways advised Committee members the Highway Commission is open to the public and that notices of meetings and printed minutes have been available the past 4 years.

There was no further discussion of House Bill 21 and the hearing was closed.

CONSIDERATION OF HOUSE BILL 56: Representative Bob Gilbert, District #22, sponsor of the bill, stated its objective is to reduce the record retention period to 3 years, for special fuel users and dealers; amending section 15-70-323, MCA. He told committee members the present 5 year retention requirement is costing the State additional dollars.

PROPOSERS: Mr. Ben Havdal, Montana Motor Carriers Association, stated House Bill 56 was simply a housekeeping bill to reduce the record retention requirement, which is presently longer than necessary, for both carriers and State records.

Mr. Norris Nichols, Administrator, Motor Fuels Tax Division, Department of Revenue, said he had no problem with the bill, which would bring Montana into compliance with 30 other states, as it is presently one of only 4 states with a 5 year record retention requirement.

There were no other proponents and no opponents of the bill. In closing, Representative Gilbert asked the Committee to give the bill favorable consideration.

DISPOSITION OF HOUSE BILL 56: Representative Keyser made a motion that House Bill 56 DO PASS. The motion was seconded by Representative Compton and given unanimous approval by the Committee.

CONSIDERATION OF HOUSE BILL 57: Representative Bob Gilbert, District #22, sponsor of the bill, said it would remove the driver control requirement from truck leasing agreements; amending section 60-12-611, MCA, thus alleviating workmen's compensation and related problems for lessors of such vehicles.

PROPOSERS: Mr. Ben Havdal, Montana Motor Carriers Association, told committee members the problem is in federal regulation of the Interstate Commerce Commission, which requires a lease agreement between the lessor (owner-operator), and the regulated carrier. He said Montana law needs to be changed to preclude development of an unwanted employer/employee relationship in the leasing process, adding the important element is that control is exercised by the carrier. Mr. Havdal stressed the bill does not address a bona fide employee, but independent contractors.

Mr. Wayne Budt, Administrator, Transportation Division, Public Service Commission, advised committee members of Commission support for the bill. In a prepared statement (Exhibit 2), he states Commission enforcement authority would not be diminished if the proposed section were amended.

There were no other proponents and no opponents of the bill and Representative Gilbert closed without further comment.

HOUSE BILL 58: Representative Bob Gilbert, District #22, sponsor of the bill, read from a prepared statement (Exhibit 3), in addressing the Committee. The bill, he said would clarify the exemption from motor carrier regulations for certain types of livestock hauling; amending section 69-12-405, MCA.

PROPOSERS: Mr. Ben Havdal, Montana Motor Carriers Association, told the Committee his organization has a regulated livestock commission division, adding there are 130 registered livestock carriers in Montana. He said operations of carriers range in size from 1 or 2 trucks to more than a dozen, which all meet certain safety and insurance regulation requirements. Mr. Havdal stated that demand for livestock transportation fluctuates and is affected by operators, who, under the guise of farmer/ranchers, actually act as commercial carriers but are not subject to safety and insurance requirements as well as GVW fees. He explained the situation, as it exists, puts the regulated carrier in a bad economic light, since farmer/ranchers undercut carrier prices.

Ms. Colleen Smith, Malta, representing Bob Smith Trucking, read from a prepared statement (Exhibit 4), with regard to House Bill 58. She told committee members her insurance premiums are \$7,000 annually while farmers are not subject to the same rates and said there are presently 19 non-regulated carriers in Phillips County.

Mr. Garde Peterson, Peterson Ranch and Feed Lot, Winifred, testified by stating his support of the bill.

Mr. Wayne Budt, Public Service Commission, said the Commission believes the bill is an initial step toward conformity in livestock transportation regulation, but enforcement would be somewhat difficult, i.e., in determining whether or not a transporter was actually a bona fide farmer/rancher.

Mr. Mons Tiegen, Montana Stock Growers Association, testifying in support of House Bill 58, told the Committee he has a problem with the proposed amendment on Page 1, line 24, where "or to a point" is deleted. He proposed the Committee strike "a point" and insert "livestock market". Mr. Tiegen said enforcement would be extremely difficult, in his opinion, adding he does realize the need for good, reliable hauling services.

Mr. Bob Gilbert, representing the Montana Wool Growers Association, requested the Committee adopt the proposed amendments in support of the bill.

There were no further proponents and no opponents of the bill.

In closing, Representative Gilbert said the bill may not be the final answer, but is a start toward what livestock carriers "can live with".

QUESTIONS FROM THE COMMITTEE: Representative Keyser asked Ms. Smith why she opposed the proposed amendment to insert "livestock market". Ms. Smith replied 85% of her business goes directly to market centers and if the bill were amended as proposed, freight bills would have to be checked for the type of carrier.

Mr. Budt added to Ms. Smith's response by stating the Commission would know whether or not a situation was gratuitous, if the farmer/rancher would open his or her books and allow the Commission to examine cost of hauling. He said compensation is hard to define for gratuitous transportation and requested the Committee keep this in mind.

Chairman informed those present the Committee would act on those bills heard either Thursday, January 10 or Tuesday, January 15.

Chairman Harp advised committee members of a meeting scheduled at the Department of Highways on Friday, January 11, 1985, at 11 a.m., whereby they may tour departmental facilities and ask questions concerning their respective highway districts. Chairman Harp stressed the importance of this meeting and requested committee members make every effort to attend.

Mr. Gary Wicks, Director, Department of Highways said he would prefer to hold a meeting January 24, 1985, at 3 p.m., in Room 420, State Capitol, during which a representative of the Northwest Traffic Institute would review Montana's process for setting speed limits in areas other than primary and interstate highways. He said many persons assume changing speed limits is a simple procedure and the meeting would provide an opportunity to clarify this misunderstanding. Members of the Montana Highway Commission plan to be in attendance, according to Mr. Wicks.

Chairman Harp advised Mr. Wicks he would discuss the matter with committee members and reply on Thursday, January 10, 1985.

In other committee business it was determined that no lobbyists or witnesses may offer testimony during executive session, as all pertinent information is to be given during hearing of a bill.

Representative Keyser made a motion the meeting be adjourned. The motion was seconded by Representative Compton and given unanimous approval. The meeting was adjourned at 4 p.m.



Representative John G. Harp, Chairman

DAILY ROLL CALL

HOUSE HIGHWAYS AND TRANSPORTATION COMMITTEE

49th Legislative Session

Date Jan. 8, 1985

| Name | Present | Absent | Excused |
|-----------|---------|--------|---------|
| Harp | X | | |
| Abrams | X | | |
| Campbell | X | | |
| Compton | X | | |
| Glazer | X | | |
| Harbin | X | | |
| Howe | X | | |
| Kennerly | X | | |
| Keyser | X | | |
| Koehnke | X | | |
| O'Connell | X | | |
| Peterson | X | | |
| Smith | X | | |
| Zabrocki | X | | |
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VISITOR'S REGISTER

HOUSE Highways & Transp.

COMMITTEE

BILL HB 21

DATE 1-8-85

SPONSOR Quilici

| NAME | RESIDENCE | REPRESENTING | SUP- PORT | OP- POSE |
|----------------|-----------|--------------------|--------------|-------------|
| Joe Quilici | Butte | Legislature | X | |
| Robert Hoodman | Fluere | Highway Commission | X | |
| Garry Wicks | Helena | MPOH | X | |
| Herb Hollobust | | | | |
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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.
 WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

1-8-85
Exhibit 1

Sponsor: Rep. Quilici

HB 21

House Bill 21

Fact Sheet - Repeal requirement for Highway Commission to meet monthly

Purpose: To eliminate the statutory requirement that the Montana Highway Commission meet at least once each month.

Background: The Highway Commission and Department believe this statutory requirement is unnecessary and frequently results in the scheduling of meetings on the last and first days of certain months to satisfy the statutory requirement. The duties and responsibilities of the Highway Commission are such that monthly meetings are not always necessary for the performance of its duties. Moreover, scheduling of meetings could be made to coincide more closely with contract lettings and awards.

The elimination of this requirement would allow the Highway Commission to set its own schedule and meet only when it had business to transact.

The Highway Commission urges the support and passage of this legislation.

Financial Impact: Savings of per diem and travel costs due to less meetings.

VISITOR'S REGISTER

HOUSE Highways & Transp. COMMITTEE

BILL HB's 56, 57, 58

DATE 1-8-85

SPONSOR Gilbert

| NAME | RESIDENCE | REPRESENTING | SUP- PORT | OP- POSE |
|-------------------|--------------|------------------------|----------------------|-------------|
| Colleen Smith | Malta, Mt. | Bob Smith Trucking | HB 58 ✓ | |
| Wayne Budt | Helena | PSC | 57-58 ✓ | |
| Allan Hel | Belgrade Mt | CD Helan Trucking | ✓ | |
| Ed Helan | Belgrade mt. | Ed Helan Trucking | HB 58 | |
| J. Brunner | 1464 Nadisk | Ag. Bez Work. | | |
| Jim Manson | E. Helena | MAINT. TRIPLE A | | |
| Mary Teigen | Helena | Mt Stockgrowers | HB 58 ✓ | |
| Ben Haudahl | Helena | MT. Motor Carriers | HB 58 | |
| Bob Gilbert | Sidney | Horse | A 1) | |
| Pom Boy | Soyt | Dist 27 | HB 58 recommended | |
| Ben Haudahl | Helena | MVCA | (HB 56 HB 57) | |
| David D. Peterson | Winnifred | Peterson Ranch & Feeds | HB 58 | |
| Bob Hest | Helena | MT Woolgrowers | HB 58 recommended | |
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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.
 WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

Name Wayne Bult Committee On Halt
Address 2701 Prospect Ave - Helms Date Jan -8-85
Representing Mont PSC Support
Bill No. 57 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. See attached

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

1-8-85
Exhibit 2

HB57

The Montana Public Service Commission supports HB57.

When the Commission enforcement staff reviews the paperwork of a leased vehicle, it is concerned with the control of the vehicle and the commodity it is transporting to verify if it is operating under the appropriate authority. The Commission does not feel that its enforcement authority will be deminished if this section relating to the control of the drivers is removed.

1-8-85
Exhibit 3

MEMO ON HB 58

House Bill 58 amends the present law prohibiting the commercial transportation of livestock for hire within the State without a Class B Certificate of Public Convenience and Necessity from the Montana Public Service Commission.

Under the present law, the exemption from regulation allows the bonafide farmer, rancher, or livestock raiser to haul his neighbors' livestock between farm and farm, ranch and ranch, or pasture and pasture. In addition, it allows the hauling "to a point". This language in effect allows the farmer, rancher, or livestock raiser to haul livestock as a commercial hauler anywhere in Montana without operating authority from the PSC according to certain interpretations of the law. In addition, the hauls can be made without meeting insurance requirements or safety requirements imposed on a regulated carrier. GVW fees paid on tractors and trailers are assessed at 16% of what a regulated commercial hauler pays because the equipment is registered as farm equipment. Many trucking operations all over the state are in business as "commercial haulers" under the guise of being a bonafide farmer, rancher, or livestock raiser, taking advantage of the loopholes in the law, cutting prices and not operating under prescribed rates by PSC. The effect of these advantages is obvious and is detrimental to regulated intrastate livestock carriers who must meet all the requirements of a common carrier.

The present law allows for the hauling of neighbors' livestock by a farmer or rancher and the proposed bill does not change that. It is to be assumed that a farmer or rancher hauling a neighbor's livestock will be reimbursed for his expenses, including fuel, etc., and the proposed bill would allow that to occur. The bill allows "gratuitous" transportation by a neighbor, including reimbursement of expenses, however, it does not allow a farmer or rancher, without PSC authority, to charge a commercial rate, including a profit, when hauling neighbors' livestock. The exemption for commercial transportation of livestock in a vehicle having a cargo bed of 22 feet in length is not affected by the proposed bill.

The Montana Motor Carriers Association respectfully requests favorable consideration of this legislation.

1-8-95
NB 58
Exhibit 4
Page 1

Mr. Chairman + committee members -

Thank you for the opportunity to be here this afternoon.

I am Colleen Smith from Malta and represent Bob Smith Trucking. My husband Robert and I were both raised on a farm and ranch and presently make our living operating a commercial livestock and grain transportation business. We are regulated carriers, having an MRC permit from the Montana Public Service Commission.

Presently, a farmer or rancher with his own semi can haul livestock right along with a commercial carrier and not carry insurance (our insurance premium is over 7000.⁰⁰ per year.) or meet any safety standards. They do not pay their state or federal taxes on diesel fuel and pay GVW fees that are 16% of what a regulated carrier pays. They do not file a fuel report with the Montana Department of Revenue every quarter, or pay their Consumer Council Tax or Federal Highway Use Taxes. Then to top it all off, cut rates set by the Montana Public Service Commission.

This is possible because the Rule adopted by the Public Service Commission defines a farmer, rancher, or raiser of livestock as someone whose earnings from such sources exceeds 50% of their income. It is almost impossible to prove if 50% of one's income is derived from farming or ranching and therefore allows any farmer to haul livestock commercially without operating authority.

1-8-85
HB58
Exhibit 4
Page 2

It is imperative that sec 69-12-405, MCA is amended if regulated carriers are to remain in business and farmers and ranchers are to be protected from other farmer carriers that do not have insurance or meet safety standards.

Almost every day, I get a phone call asking how much we charge. I reply that our rates come from a rate sheet put out by the PSP. We have ~~an MRL permit~~ a class B certificate and receive our rates ~~from the~~ through the Montana Livestock Tariff Bureau which ~~incidentally costs \$5⁰⁰ every quarter to belong to~~. If a rancher can get another carrier to do the job ~~for less~~, ^{business} ~~we lose the job~~. Approximately 85% of our ^{business} is directed ^{to market centers}.

Both Senator Hammond and Representative Bardouwe from our area had cattle killed this fall while being transported on a non-regulated carrier.

I would like to ask you to carefully consider H.B. 58 ~~as proposed by the Montana Motor Carriers Association~~. This would make it considerably easier for the law to be enforced. All one would have to do is check the freight bills turned in at the livestock market centers. H.B. 58 ~~will not solve all the problems as a non-regulated carrier will still be able to use Montana highways without paying their fair share unless they are required to purchase a commercial license and show proof of paying their use taxes~~. One of our tractors is ~~pre-rated and when I sent in for a new license it was required to show proof that I paid our Federal Highway Use Taxes~~.

Please do something to clarify the intrastate regulation of livestock transporters so

1-8-85
HB 58
Exhibit 4
Page 3

of service to Montanans and not have to compete with non-regulated carriers operating unsafe and uninsured vehicles. Our State does not receive enough revenue from the part of the highway that a non-regulated carrier wears out. Presently in Phillips County alone there are ~~several~~ ^{many} non-regulated carriers.
Thank You.

of market centers is to be inserted at the end of line 24 -

I would like to see "in money or" deleted from line 9.

The reason for this is so the PSC can put a stop to rate cutting of non regulated carriers.

1-8-85
HB 58
Exhibit 5

PHILLIPS COUNTY NEWS — WEDNESDAY, NOVEMBER 7, 1984 — 3

Cattle killed by train

Seventeen head of cattle were killed last Tuesday afternoon when a Burlington Northern freight train crashed into the rear of a semi-truck double-decker trailer two miles east of Harlem.

Driver Alfred Minugh of Dodson escaped injury. He was transporting 58 head of cattle owned by Francis Bardonouve to stockyards located adjacent to the crossing where the accident occurred.

The train was traveling at 60 miles per hour when it tried to make

the emergency stop. It eventually came to a stop about a half-mile down the track.

A Montana Highway Patrolman from Havre reported that the train was eastbound at the same time Minugh was eastbound on a gravel road parallel to the tracks. The driver did not see the train as he pulled across the tracks, making a left turn. The cab and the front half of the trailer cleared the tracks, but the four-engine 100 car freight train tore into the rear half.

WITNESS STATEMENT

Name Wayne Beid Committee On Hart
Address 2701 Prospect Helms Date 1/8/85
Representing Mont PSC Support
Bill No. 58 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:
1. see attached

- 2.
- 3.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

1-8-85
Exhibit 6

HB 58

The Montana Public Service Commission supports HB 58.

The Commission feels that the bill, as written, is at least an initial step to bring livestock regulation in conformity with how other commodities are regulated. In all other areas of transportation regulation, it is the commodity which is regulated. In the livestock transportation area, livestock is regulated unless it is transported by a bona fide farmer or rancher, then it is unregulated. This situation makes it extremely difficult, if not impossible to enforce on the road because the Commission enforcement personnel can not determine if the hauler is a bona fide farmer or rancher. The bill as it is written would eliminate part of the discrepancy, in that it would require anyone hauling livestock except farm to farm, ranch to ranch or pasture to pasture, to have the appropriate authority from the Public Service Commission.

STANDING COMMITTEE REPORT

JANUARY 3

1985

MR. SPEAKER

We, your committee on HOUSE HIGHWAYS AND TRANSPORTATION

having had under consideration HOUSE Bill No. 56

FIRST reading copy (White)
color

TO REDUCE THE RECORD RETENTION PERIOD TO 3 YEARS FOR
SPECIAL FUEL USERS AND DEALERS; AMENDING SECTION 15-70-323, MCA.

Respectfully report as follows: That HOUSE Bill No. 56

DO PASS