

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

February 5, 1985

The meeting of the Highways and Transportation Committee was called to order by Vice Chairman Abrams on January 29, 1985, at 3:15 p.m. in Room 420, State Capitol.

ROLL CALL: All members of the Committee were present except Chairman Harp, who was excused.

CONSIDERATION OF HOUSE BILL 86: Representative Francis Koehnke, District 32, sponsor of the bill, read from a prepared statement. He said the bill would include the act of passing a school bus displaying a flashing red signal, in the offense of reckless driving, and offered three amendments to the bill (Exhibit 1).

Representative Koehnke explained there were 21 violations involving passing a school bus displaying a flashing red signal in Broadwater County during a six week period in the fall of 1983, which prompted the bill.

PROPOSERS: Mrs. Marianne Bagley, a resident of Broadwater County, also read from a prepared statement in support of the bill (Exhibit 2). Mrs. Bagley stated her concern arose from an incident wherein her daughter was struck by an oncoming motorist while crossing the road after leaving the school bus.

Mr. Terry Brown, Transportation Specialist, Office of Public Instruction, told committee members his office supports the bill, as it "could help provide more protection for the approximately 63,000 school children who ride our 1,320 school buses each school day" (Exhibit 3).

Mr. Wayne Buchanan, Montana School Boards Association, stated association support of the bill.

Mr. Jesse Long, Executive Secretary, School Administrators of Montana, stated his association also supports the bill.

Mr. Don Miller, Grand Chapter Chairman, Order of the Eastern Star, East Helena, told the Committee he and his wife watched two children narrowly escape being hit by a vehicle after departing a school bus in East Helena. He recommended the Committee amend the bill and impose a 5 year suspension of a drivers' license when cited for failing to stop for flashing red signals on a school bus.

Colonel Bob Landon, Montana Highway Patrol, stated he would support the bill with the amendments proposed by Representative Koehnke.

OPPOSITIONS: Patrolman Jim Riddle, Montana Highway Patrol, stated he was uncertain whether or not he was an opponent of the bill. He explained there were 20 citations issued in Broadwater County, between August 6, 1983, and November, 1983, to motorists passing school buses which had red lights flashing. He said the school bus in Broadwater County makes approximately 14 stops in 15 miles each morning and afternoon on US12-287, which appeared to be a safety problem for children. Patrolman Riddle told the Committee he met with Broadwater County school officials and, subsequently, many turnout areas were arranged to keep buses off the highway when children were boarding or departing, virtually eliminating violations referred to in the bill.

Patrolman Riddle advised the Committee, statutes presently allow an officer to issue a citation for reckless driving if the officer deems it to be appropriate, but he believes an individual driving 15 miles per hour who fails to stop for a school bus with red lights flashing, may not always be guilty of reckless driving.

QUESTIONS: Representative Zabrocki asked what the law provides for at this time. Representative Koehnke replied a motorist must stop whether coming toward or following a school bus.

Representative Peterson asked whether cooperation of school bus drivers would better resolve the problem, rather than changing the violation. Patrolman Riddle replied, "education of the public, stop signs on buses, and/or increased points for violations may help", in addition to "making the owner of a vehicle responsible for the violation, no matter who is driving the vehicle".

Representative Peterson asked Patrolman Riddle if he were opposed to the proposed penalty for reckless driving. He replied, "if the motorist were actually guilty of reckless driving", he would favor the proposal.

Representative Zabrocki asked Mr. Terry Brown if he thought school buses were at fault. Mr. Brown replied there is a requirement that school buses stop at sheltered spots wherever possible, and load and unload only on the right side of the roadway.

In closing, Representative Koehnke, said he believes passing a school bus which has its red lights flashing would be a violation no matter what speed a motorist was driving, and that buses should be better marked, i.e., with stop signs. He told the Committee Broadwater County buses are equipped with 2-way radios which are on the same frequency as those of law enforcement officers, and can report a license plate number of an offender immediately. Representative Koehnke also provided pictures of signs erected by the County and safety signs he sponsored (Exhibits 4 and 4a).

CONSIDERATION OF HOUSE BILL 126: Representative Ray Peck, District 15, told committee members he sponsored the bill at the request of the Montana Highway Patrol in Lewistown and Havre and Hill County law enforcement personnel.

Representative Peck read the section of the bill providing graduated fines which apply to speeds over 55 mph and would require a driver to have his or her drivers' license in possession whenever operating a motor vehicle on public roads (Exhibit 5). He said Representative Lory, who signed the bill, proposed the drivers' license requirement be removed from the bill.

Representative Peck explained that the language on page 4 of the bill would preclude individuals who do not have liability insurance at the time they are stopped by an officer, from producing proof of insurance at a later date.

According to Representative Peck, the administrative costs of writing a \$5 speeding ticket presently exceed the amount of the fine. He said he believes the graduated fine schedule is fair, (especially since the 55 mph limit was imposed as an energy conservation measure), and would be a deterrent to speeding motorists. He explained that Montana must remain below a certain speed limit violation percentage to continue receiving federal funds.

PROPONENTS: Colonel Bob Landon, Montana Highway Patrol, told the Committee he supported the increase in fines proposed in the bill and the statements made by Representative Peck. Referring to page 2, line 14, he recommended the Committee keep the language of the existing law in instead of the language proposed in the bill, and said benefits of the bill would include increased dollars to the general fund and the potential saving of lives.

Mr. Ben Havdal, Montana Motor Carriers Association, advised committee members he supported the bill with the exception of a conflict between sections 61-8-312 and 61-8-711, MCA. He said 61-8-312 sets specific speed limits for trucks at 60 mph on 2 lane highways and 65 mph on 4 lane highways, while the proposed change for 61-8-711 would provide fines be paid for all vehicles travelling in excess of 55 mph. Mr. Havdal explained that 61-8-312, also provides for imposition of a jail sentence, in conflict with language in the bill.

Mr. Larry Tobiason, Montana Automobile Association, said he had no problem with the bill as long as the fine schedule is changed to exclude trucks as provided in 61-8-312, MCA.

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QUESTIONS: Representative Koehnke asked Colonel Landon if the accident rate was down for 1984. Colonel Landon replied Montana had its lowest fatality rate in 21 years during 1984 and that under the basic rule, officers can presently fine a driver more than \$5 for careless and/or reckless driving.

Representative Smith asked if the proposed fines would go on the drivers' record. Colonel Landon replied they would not.

Representative Harbin stated he was opposed to the section of the bill requiring proof of insurance to be in a vehicle at all times. Representative Peck replied, "proof of insurance should be in all vehicles at all times".

Representative Harbin asked if the proposed legislation would increase the number of those who carry liability insurance. Colonel Landon replied the present rate to violation is approximately 3% and that he did not know if the bill would help the situation.

Representative Glaser asked Colonel Landon who would remove license plates from a vehicle which is uninsured. Colonel Landon replied the Highway Patrol is responsible for this procedure.

Representative Keyser told committee members a bill with similar language was before the House Judiciary Committee, who put the language stricken in House Bill 126 back into that particular bill.

Legislative Researcher, Tom Gomez, explained that Mr. Havdal had a valid point since 61-8-312, MCA, as proposed, would present a conflict.

In closing, Representative Peck commented that House Bill 126 would serve as an added deterrent to speeding motorists and in lowering traffic fatalities.

CONSIDERATION OF HOUSE BILL 238: Representative Kerry Keyser, District 74, testified as a sponsor of the bill in the absence of Representative Connelly. He said the bill revises and clarifies the drivers' license reinstatement provisions, which previously required the Motor Vehicles Division of the Department of Justice to "investigate the character and habits of persons whose license had been suspended, prior to reinstatement of such licenses".

Representative Keyser told the Committee the bill removes "character and habits" and clarifies the duties of the Division and its responsibilities since the Division does presently check for reasons not to reissue a drivers' license.

PROPONENTS: Mr. Duane Tooley, Chief, Driver Services Bureau, Department of Justice, said the bill was simply a housekeeping measure with no fiscal impact. He explained it would be very costly if the Division were to investigate character and habits of drivers as presently required. He added, "the procedure has not been challenged to date and the bill would eliminate the chance of this occurring".

There were no opponents of the bill and no questions from the Committee. Representative Keyser closed without comment.

CONSIDERATION OF HOUSE BILL 66: Representative Helen O'Connell, District 40, testified as sponsor of House Bill 66, which would preclude youths under the age of 18 from riding in the open box of a pickup truck on public roads. She said there is presently no legislation addressing the situation, and that Representative Sands, who researched the matter for her, believes no amendments are necessary (sections 61-1-8(10)(2) and 61-1-201, MCA).

PROPONENTS: Colonel Bob Landon, Montana Highway Patrol, stated he supported the bill and cited incidents from August, 1983, and June and July, 1984, in which many youths were injured while riding in open boxes of pickup trucks and several fatalities resulted.

There were no opponents of the bill.

QUESTIONS: Representative Glaser said rural fire fighting would be affected by the bill since people of all ages ride in the open boxes of pickup trucks in such emergency situations.

Representative Harbin asked if farmers who cross public roads on their way from one parcel of property to another would be violating the proposed law. Colonel Landon replied that, technically, such an action would be a violation, however "the Highway Patrol attempts to enforce the spirit of the law" and would consider the nature of the action.

Representative Harbin said he supported the concept of the bill but wondered if it would not also be a problem for children who go on hayrides.

Legislative Researcher, Tom Gomez, stated there are exceptions indicated in 61-8-101, which would apply to the situations described by Representative Glaser and Representative Harbin's questions concerning farmers.


Vice Chairman Abrams advised the Committee they could pursue the matter during Executive Session.

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Representative Koehnke asked if children riding in a box covered by a topper would be in worse danger. Colonel Landon replied that he did not know for certain, but that the fatalities incurred from pickup accidents resulted from an individual being thrown from the vehicle and being rolled upon.

In closing, Representative O'Connell asked the Committee to support the bill.

There being no further business before the Committee, the meeting was adjourned at 4:55 p.m.

  
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Representative John G. Harp, Chairman

## DAILY ROLL CALL

## HOUSE HIGHWAYS AND TRANSPORTATION COMMITTEE

49th Legislative Session

Date Feb 5, 1985

Name	Present	Absent	Excused
Harp			E
Abrams	✓		
Campbell	✓		
Compton	✓		
Glazer	✓		
Harbin	✓		
Howe	✓		
Kennerly	✓		
Koyser	✓		
Koehnke	✓		
O'Connell	✓		
Peterson	✓		
Smith	✓		
Zabrocki	✓		

# VISITOR'S REGISTER

HOUSE Highways & Transp.

COMMITTEE

BILL NB 86

DATE Feb 5, 1985

SPONSOR Koehnke

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



IN SUPPORT OF HOUSE BILL 86

By Rep. Francis Koehnke

House Bill 86, if enacted, would make the passing of any school bus stopped with its red lights flashing for the purpose of receiving or discharging school children an offense of reckless driving.

Under the current Montana law, passing a school bus on red flashing lights is a regular traffic violation with a fine of not less than \$10 or more than \$100 or not more than 10 days in jail, plus 2-points on the driver's habitual traffic offender record.

On the other hand, the penalty for reckless driving is a fine of not less than \$25 or more than \$300 or not more than 90 days in jail, plus 5-points on the driver's record.

Yes, the offense of reckless driving is a very serious offense! And so is hitting a small child getting on or off a school bus! Many school children who ride the bus are only 5, 6, and 7 years old. Many have not been around the normal city traffic since they live in rural areas.

We get tough with drunk driving and rightfully so. We also get tough with fish and game violators, property offenses, motorboat and snowmobile operators, tax protester's, and almost every other kind of offense.

For example, here are a few penalties for these non-personal offenses:

22-3-442 Removing historic artifacts...a fine of not more than \$1000 or 6 months in jail or both.

15-70-303 Fail to carry special fuel permit in truck...a fine of not less than \$100 or more than \$2000 or 6 month in jail or both.

- 23-2-632 Unlawful operation of snowmobile on street...a fine of not less than \$15 or more than \$500.
- 23-2-522 Discharge of waste from boat(littering on water).. a fine of not less than \$15 or more than \$500 or 6 months in jail or both.
- 75-10-212 Dumping garbage(littering on land)... a fine of not more than \$100 or 30 days in jail or both.
- 87-2-103 Fishing without a license...a fine of not less than \$50 or more than \$500 or 6 month in jail or both.
- 87-1-102 Unlawful possession of a deer...a fine of not less than \$200 or more than \$1000, or 6 months in jail or both.

I believe it is time we get tough in this State with driver's who willfully disregard the safety of children around school buses. I am not advocating a general increase in all traffic fines -- in fact I think that the fish and game fines are much too high.

I am advocating the inclusion of a willful passing a school bus stopped on a roadway with its red lights flashing to be an offense of reckless driving. Every state in the union has a school bus law that prohibits passing on red. Montana is one of only a few that require amber warning lights. There is no reason for a motorist not to stop, except out of laziness or a willful desire to disregard the law.

In 1983, there were 58 accidents involving school buses with 1 fatality and 20 injuries. In the first 8 months of 1984 (Jan-Aug), there were 34 accidents with 1 fatality as reported by the Motor Vehicle Division.

The number of school bus red light violations in 1983 were 250, and in the first 10 months in 1984, a total of 168 were reported.

If this bill could save the life of just one child in the next few years, it will be worth it. The match between a 1-ton automobile and a 50-pound kid is just not fair odds for the kid. We have a chance to do something about this real child abuse problem today with House Bill 86. I hope you agree.

Offered by Rep. Francis Koehnke, Bill Sponsor

AMEND HOUSE BILL 86 AS FOLLOWS:

1. Page 1, line 20.

Following: "(c)"

Strike: "passes,"

Insert: "operates any vehicle in willful or wanton disregard  
for the safety of persons or property while passing,"

2. Page 1, line 23.

Following: "described in"

Strike: "61-8-351(4)."

Insert: "61-8-351(5)."

3. Page 2, line 15.

Following: "proceed."

Insert: "(2)"

Renumber: Subsequent subsections.

4. Page 2, line 16.

Following: "vehicle"

Strike: "must"

Insert: "shall"

The purpose of amendment No. 1 is to make the bill do what was originally intended, but never got drafted right. This would give the police office the same authority in issuing tickets as he has in all other reckless driving cases. Thus, to get reckless driving for passing school bus on red, the driver must make either a "willful or wanton disregard for safety" and not just a minor failure to the obey the law.

Amendment No's. 2 and 3 would codify the amber flashing light violation as a independent subsection for clarity and easy reference.

Amendment No. 3 make the law most clear in regard to slowing and being prepared to stop by striking the word "must" and inserting the command word "shall", which has more force under the law.

## TESTIMONY ON HB 86

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, MY NAME IS MARIANNE BAGLEY AND I AM HERE TO SPEAK IN BEHALF OF MY HUSBAND JIM BAGLEY AND MYSELF. WE RESIDE IN BROADWATER COUNTY.

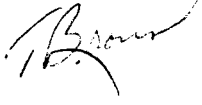
IN MAY OF 1980, OUR DAUGHTER TERESA BAGLEY WAS RUN DOWN BY AN AUTOMOBILE AS SHE WAS DEPARTING THE SCHOOL BUS FOR HOME. THE SCHOOL BUS DRIVER HAD TAKEN ALL PRECAUTIONS THAT HE COULD. THE SCHOOL BUS WARNING LIGHTS WERE ON AND THE CHILDREN, TWO IN ADDITION TO OUR DAUGHTER, WERE ALLOWED TO DEPART THE BUS. THE TRAFFIC HAD STOPPED FROM THE REAR AND IT WAS ASSUMED THAT THE ONCOMING TRAFFIC WOULD SLOW AND STOP. BUT THIS WAS NOT THE CASE. THE LEADING ONCOMING CAR WAS TRAVELING APPROXIMATELY 60 MILES AN HOUR HEADING SOUTH DOWN THE WINSTON FLATS ON A CLEAR, BRIGHT SPRING DAY, WITH EXCELLENT VISIBILITY. THE DRIVER NOT ONLY DID NOT STOP BUT DIDN'T EVEN ATTEMPT TO SLOW DOWN. OUR DAUGHTER, DUE TO VERY IMPAIRED EYESIGHT, DID NOT SEE THE ONCOMING CAR WHEREAS THE OTHER TWO CHILDREN WERE ABLE TO JUMP BACK AND AVOID BEING HIT. SHE WAS NEARLY OFF THE ROADWAY WHEN SHE WAS HIT BY THE CAR. UPON IMPACT SHE WAS THROWN OVER THE CAR AND <sup>LANDED</sup> ~~LEFT~~ ON THE SHOULDER OF THE HIGHWAY. SHE SUFFERED A BROKEN LEG IN THE GROWTH PLATE OF THE LOWER KNEE. SHE ALSO SUFFERED A SPLIT PELVIS, MULTIPLE FACIAL FRACTURES AND EXTENSIVE FACIAL AND BODY LACERATIONS AND ABRASIONS. IF OUR DAUGHTER HAD HAD NORMAL EYESIGHT SHE PROBABLY COULD HAVE BEEN ABLE TO AVOID THE ACCIDENT. HOWEVER, IT IS PRESUMPTUOUS FOR ANY LICENSED DRIVER OF A MOTOR VEHICLE TO ASSUME CHILDREN OR ANYONE ELSE SHOULD GET OUT OF THEIR WAY SO THAT THEY CAN OPERATE THEIR VEHICLE IN A TOTALLY CARELESS AND NEGLIGENT MANNER. WHEN

AT THE HOSPITAL IMMEDIATELY FOLLOWING THE ACCIDENT, THE DRIVER OF THE CAR, A SISTER FROM A BILLINGS CATHOLIC CHURCH, MADE THE STATEMENT THAT SHE HAD DONE EVERYTHING POSSIBLE TO AVOID THE ACCIDENT, AND THAT SHE DID NOT HAVE TO STOP WHEN APPROACHING A SCHOOL BUS FROM THE FRONT.

WE FEEL THAT THERE IS A TOTAL NEGLIGENCE ON EVERYONE'S PART WHEN THE DRIVING PUBLIC IS SO UNINFORMED OF THE LAWS THAT PEOPLE OPERATE THEIR VEHICLES IN SUCH A MANNER AS TO JEOPARDIZE OUR CHILDREN WHEN LOADING AND UNLOADING FROM A BUS OR WHEN SIMPLY ON THE STREETS AND HIGHWAYS. ALSO, WE FEEL THAT THE STATE IS NEGLIGENT IN ITS RESPONSIBILITY OF PROTECTING OUR CHILDREN WITH THE EXISTING LAWS PERTAINING TO SCHOOL BUS PASSING VIOLATIONS. THE DRIVER WHO HIT OUR DAUGHTER RECEIVED A \$50.00 FINE FOR FAILURE TO STOP AT A RED LIGHT. THIS IS A PRETTY PATHETIC PENALTY FOR SOMEONE WHO OPERATES A VEHICLE IN A CARELESS, NEGLIGENT MANNER WITH NO REGARD FOR THE SAFETY OR LIFE OF OUR CHILDREN.

OUR DAUGHTER MADE A MIRACULOUS RECOVER. SHE DID NOT GROW ANY MORE (SHE WAS 13 AND IN A HIGH GROWTH PERIOD) AFTER THE ACCIDENT. IF SHE HAD GROWN, SHE WOULD HAVE HAD A SHORT AND POSSIBLY DEFORMED LOWER LEG DUE TO THE FRACTURE THROUGH THE GROWTH PLATE. SHE WAS IN A WHEEL CHAIR AND/OR ON CRUTCHES FOR NEARLY 5 MONTHS AND WAS IN A FULL LEG CAST FOR 4 MONTHS. ALL IN ALL, IT IS A HIGH PRICE FOR A CHILD TO PAY BECAUSE THE STATE OF MONTANA DOES NOT HAVE ADEQUATE LAWS OR PENALTIES TO PROTECT THEM. MAKE THE LAWS AND PENALTIES TOUGH ENOUGH AND VIOLATORS WILL BECOME MUCH FEWER.

WE URGE YOU THE COMMITTEE TO PROVIDE HB 86 WITH A DO PASS RECOMMENDATION. THANK YOU.

Terry Brown   
H.B. #86  
Support Testimony  
February 5, 1985

The Office of Public Instruction would like to go on record as supporting H.B. #86. We hope that the reckless driving charge will help convince the motoring public of the seriousness of passing school buses when they are loading or unloading children. This bill could help provide more protection for the approximately 63,000 school children who ride our 1,320 school buses each school day.

2-5-84  
Exhibit 4  
HB86

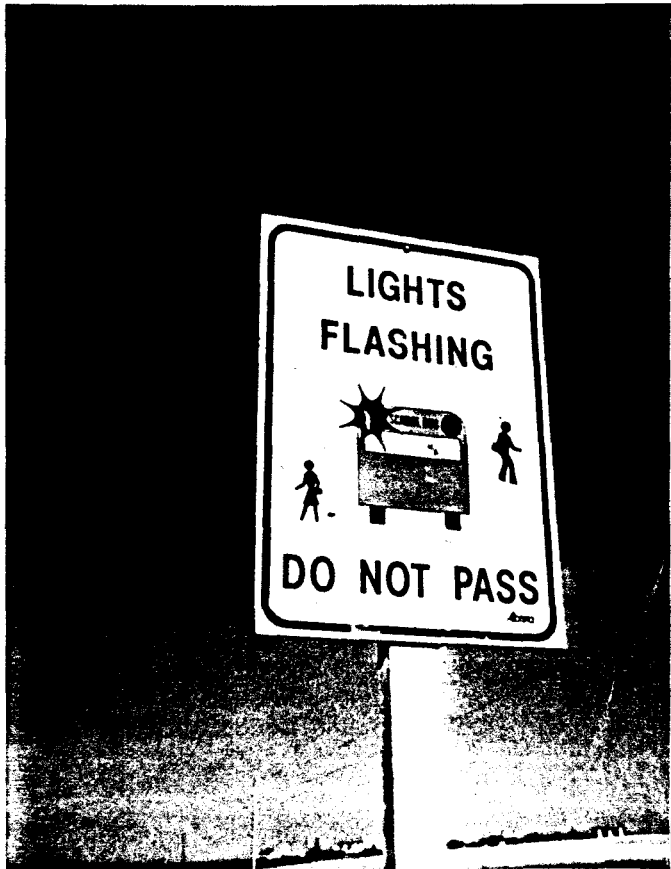


Exhibit 4  
2-5-85  
HB 86

# **Schools Open**

## **Watch for Children**

**STOP**  
**DO NOT PASS**  
**SCHOOL BUS**  
**ON RED**

**IT COULD BE FELONY HOMICIDE IF  
A CHILD IS HIT AND KILLED!**

It is a criminal misdemeanor to unlawfully pass from **either direction** any school bus with its red lights flashing. Orange lights mean caution, slow down, and **be prepared to stop!**

Failure to stop on red could mean a \$100 fine and/or 10 days in jail.

A Public Safety Message Compliments of

YOUR STATE REPRESENTATIVE

**FRANCIS KOEHNKE**

Paid by Rep. Francis Koehnke, Kathryn W. Ragen, Treasurer, Townsend, MT 59644-0692

Phone 266-3602

Townsend Star Print - Townsend, MT



# VISITOR'S REGISTER

HOUSE Highways & Transp

COMMITTEE

BILL HB 126

DATE Feb 5, 1985

SPONSOR Peck

[illegible]

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WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

# VISITOR'S REGISTER

HOUSE Highways & Transp

COMMITTEE

BILL HB 238

DATE Feb 5, 1985

SPONSOR Keyser / Connolly

[illegible]

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# VISITOR'S REGISTER

HOUSE

COMMITTEE

BILL

DATE \_\_\_\_\_

SPONSOR

[illegible]

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