

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 6, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Wednesday, February 6, 1985 at 8:00 a.m. in Room 312-3 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 357: Hearing commenced on HB 357. Rep. Jerry Nisbet, chief sponsor of the bill, testified in support of it. Rep. Nisbet stated that this bill would reinstate a law that we repealed in Montana in 1977. Rep. Nisbet referred to some statistics from the "Effective Motorcycle Helmet Use Law Repealed," prepared by the National Highway Traffic Safety Administration. He also submitted copies of the Motorcycle Accident Facts for the committee's information. He feels that from the statistics, there is no doubt that helmet laws are effective in preventing motorcycle fatalities. A copy of the Motorcycle Accident Facts has been marked as Exhibit A and is attached hereto.

Senator Mike Halligan, from Missoula, testified in support of HB 357. He feels the helmet law should be re-enacted not only for the economic justification but because of the personal tragedies that occur.

Dr. David Jacobson, an orthopedic surgeon from Missoula, Montana, feels that motorcycles are inherently dangerous. He showed a series of slides that reveal facts from the national series. Most of the information in the slides was provided by the Montana Highway Department and the Western Montana Medical Society. He pointed out that the number of motorcycle fatalities is increasing. He also stated that there is a greater number of injuries when there is no mandatory helmet law.

Colonel R. W. Landon, representing the Montana Highway Patrol, spoke in favor of the bill. He says the main reason they support this legislation because it has proven in the past to save lives. He said since this law has been repealed, the number of deaths has been rising. He said that passage of this bill would also help the highway patrol in their enforcement process.

Wendy Allik, a registered nurse from Missoula, appeared and offered testimony in support of this bill. She

submitted letters from people who are also concerned about this issue and who favor passage of this bill. The packet of letters was marked Exhibit B and is attached.

Al Goke, Administrator of the Highway Traffic Safety Division, Department of Justice, feels also that by enacting mandatory legislation, this will decrease the number of fatalities involving motorcycle accidents.

Jerry Loendorf, representing the Montana Medical Association, testified in support of the bill. He said the passage of this piece of legislation would save lives and prevent serious bodily injury. He feels society has the right to require the usage of helmets because of the costs to society as a result of injuries and fatalities. He pointed out that any dependents left behind as a result of a fatality will have to be taken care by society.

There being no further proponents, Chairman Hannah requested the opponents to present their testimony.

OPPONENTS:

Dal Smilie, appearing on behalf of himself, offered testimony in opposition to this bill. He said that although he is pro helmet usage, he is against helmet laws. A copy of his testimony was marked as Exhibit C and attached hereto.

Richard Clark, a motorcycle dealer in Montana, stated that it is obvious the sponsors of this bill do not own motorcycles. He said that helmets inhibit hearing and vision capabilities. He also commented that children's helmets do not meet the necessary standards of safety.

Jim Buck, appearing on behalf of himself from Helena, pointed out that the majority of motorcycle accidents occur within six months riding experience. However, there are exceptions to the rule, he added. He told members that he wears a helmet, but he objects to wearing a helmet in town. He thinks the proper method of encouraging people to wear helmets is through education. He feels the present statute is an excellent compromise. He finally stated, "Let's let the question of morality rest with the individual and not with the legislature."

Robert Kelly spoke in opposition to this bill. He feels that motorcyclists should decide for themselves whether or not they want to wear a helmet.

James Beyer from Missoula, informed the committee that the helmets on the market today do not meet the present safety standards. He said that 90% of all helmets fail to meet the performance requirements set by industry specifications. He also said that 75% of all motorcycle accidents occur within the first 90 days following the purchase of a motorcycle. He also said that 70% of the motorcycle accidents involve two vehicles. He feels the choice should be up to the individual as to whether he wishes to use a helmet.

Keith Ingram from Butte, testified against the bill. He said the insurance companies do not give a person a price break just because he wears a helmet. In fact, they don't inquire whether the person wears a helmet or not.

Doug Woodahl, a motorcycle mechanic, said he estimates that 80% of the motorcyclists wear helmets anyway. He feels the individual motorcyclist should have the right to decide when he wears the helmet. Circumstances do arise when a person cannot wear his helmet at all times.

Manuel Madrid from the Cossack Club, gave the committee some statistics regarding accident statistics, helmets in terms of safety standards, and other such statistics showing why mandatory helmet usage should not be enacted. A copy revealing these statistics was marked as Exhibit D and attached hereto. He also referred to the Hurt Report.

Bill Wedgewood, a motorcyclist enthusiast, testified against the bill. He said that people who drive cars fail to watch out for motorcyclists.

Dale Gummer from Butte, testified in opposition to the bill.

Dave Slaughter from Missoula, stated his opposition to the bill. He mentioned other activities that also should require helmet wear if motorcyclists are made to wear them.

Cindy Woodahl feels the legislature should spend its precious time considering more important cases than this. She urged that the committee kill the bill.

Richard Alderson from Missoula, wished to go on record as opposing this piece of legislation.

Mike Blume from Anaconda, appeared and testified against the bill. He feels this is one more attempt to take more rights away from him.

Dave Stewart from Bozeman feels the choice should be left up to the individual.

Public testimony was closed, and Chairman Hannah asked Rep. Nisbet to close.

Rep. Nisbet feels that the statistics are clear in what they reveal -- and that is that helmets do make a difference in preserving lives and preventing serious bodily injury. He feels the argument for impaired vision and hearing is inconsequential.

The floor was opened to committee questions.

Rep. Keyser wanted to know at up to what speeds will the helmet actually protect a person. Mr. Goke said that the opponents of the bill said it was approximately 13 miles per hour. Mr. Madrid said the federal Department of Transportation has admitted that no helmet on the market can reject impact stress above 13 miles per hour. (This information came from Exhibit D.)

In response to another question asked by Rep. Keyser, Col. Landon feels that it is easier to get hurt on a motorcycle than in an automobile. Rep. Keyser asked when we are talking about fatalities in the state of Montana, isn't it a fact that basically year in and year out that fatalities in Montana fluctuate. Col. Landon agreed with the statement. In regards to motorcycle fatalities, wouldn't it have the same ratio of fluctuation as with automobiles. Col. Landon said they experience more problems with motorcycles in good weather.

Rep. Miles is curious to see how many accidents are auto-related and how many accidents are auto-caused. Col. Landon didn't have any figures available with him.

In response to a question from Rep. Montayne, Mr. Clark said that 80% of street motorcyclists are insured. He informed the committee that a full insurance package is required on all motorcycle contracts, and he recommends motorcyclists obtain insurance.

Rep. Grady wanted to know the reason why something isn't being done to bring the helmets up to safety standards. Dr. Jacobson didn't know the exact reason for this, but he does feel that helmets in general do work. Rep. Grady expressed his concern that by re-enacting this law, we would only be doing half the job if helmets are not up to safety standards. It was Dr. Jacobson's opinion that better helmets are on the market today.

Hearing closed on HB 357.

CONSIDERATION OF HOUSE BILL NO. 413: Rep. Mike Kadas appeared and offered brief testimony in support of his bill. He called upon Mike Meloy to testify.

Mike Meloy, representing the Montana Press Association, testified before the committee. HB 413 was introduced at the request of the Montana Press Association to address some problems. House Bill 413 would basically remove the litigation and collective bargaining exemptions from the Open Meetings Law. Mr. Meloy stressed the fact that the right to know is a constitutional right. Mr. Meloy submitted copies of letters from other people who wish to go on record as supporting this bill.

Rob Dean, managing editor of the Bozeman Daily Chronicle, testified in support of HB 413. A copy of his testimony was marked as Exhibit F and is attached hereto.

There being no further proponents of the bill, Chairman Hannah requested the opponents to testify.

John LaFaver, director of the Department of Revenue, spoke in opposition to HB 413. He feels that the bill as written has almost the opposite effect as intended to. He doesn't feel it would be in the public's interest if we have to lay out ahead of time the entire legal strategy of the state. He said that if the bill passed and if it is applicable to state agencies and if we couldn't talk confidentially about these things, we simply wouldn't talk at all. Mr. LaFaver is receptive to an amendment that spoke to only litigation that is pending. Where litigation has been filed, there ought to be an opportunity for the state officials representing the public interest to be able to meet together and talk over their strategy in a confidential way.

David Wanzenried, Commissioner of Labor and Industry, also stated his opposition to this bill for the same reasons that Mr. LaFaver shared with the committee.

Wayne Buchanan, representing the Montana School Board Association. He feels that school boards have done a pretty good of embracing both the spirit and the letter of those laws. He feels that if this bill is passed, we will be taking a giant step backward. He feels that school officials will revert to secret meetings anyhow if this bill passes into law.

Rod Sunsted, chief negotiator for the executive branch of state government in collective bargaining, appeared and offered testimony in opposition to this bill. He feels that if HB 413 were passed, it would seriously hamper the collective bargaining process for public employees in this state. HB 413 would open up collective bargaining strategy sessions. A copy of his testimony was marked as Exhibit G.

Rick Bartos, from the Superintendent of Public Instruction, offered testimony in opposition to HB 413. He referred to a Montana Supreme Court case entitled Jarussi vs. St. Ignatius School Board looked at the question of the collective bargaining strategy. In that case, the supreme court held that if an individual is represented by a collective bargaining unit, one recognized by the state, that particular session then can be held in confidence, or the school board may go into executive session. If the individual is not represented by collective bargaining unit, then the school board must be required to hold the meeting in open and on a one-to-one basis with the particular person involved. Finally, the office of public instruction and three school boards recently completed a settlement that involved a major lawsuit involving sex equity in schools. He believes that it was the consensus of the attorneys involved in that particular case that if the attorneys were unable to hold meetings in confidence with their board, that a settlement would not have occurred.

Phil Campbell, representing the Montana Education Association, testified, against the bill. He feels if the balance that is critical to the bargaining process is messed with, the whole process is messed with.

Don MacIntyre, legal counsel for the Department of Natural Resources, testified in opposition to this bill. Mr. MacIntyre believes in the ultimate analysis, the Montana Supreme Court will hold that the particular statutes we are dealing with today that exists as it concerns litigation will stand a constitutional challenge. Mr. MacIntyre continued to point out some of the practical problems of the bill. He, too, feels that if they are required to open their meetings, it will have an adverse affect on their ability to negotiate.

Terry Minow, representing the Montana Federation of Teachers, appeared and offered testimony. She has mixed feelings about the bill. She feels it hits the balance of power towards the employee. She feels also that collective bargaining is working well under the present system. Strategy sessions must be held

confidential in order for that process to continue working well.

There were no further opponents.

Rep. Kadas made a few closing comments. Rep. Kadas pointed out that the open meeting law does not apply to state staff. It applies to public bodies. He said the only opponent it would apply to is the Human Rights Commission. Rep. Kadas asked the committee to at least amend this bill so that there has to be pending litigation.

The committee was given opportunity to question.

In response to a question, Mr. Meloy commented that the vast majority of school boards are complying with the present laws.

Hearing closed on HB 413.

CONSIDERATION OF HOUSE BILL NO. 532: Rep. Paul Pistoria, #36, sponsor of this bill, appeared and offered testimony. He submitted a packet of newspaper articles relating to his bill which would limit the penalties that may be imposed for failing to comply with the regulations of a private parking service. The packet was marked as Exhibit H.

There were no further proponents or opponents, and Rep. Pistoria closed. He stated that he wants to see private parking companies comply with local government regulations.

There being no questions from the committee, hearing closed on HB 532.

CONSIDERATION OF HOUSE BILL NO. 531: Rep. Roland F. Kennerly, District #9, testified in support of his bill. He pointed out a typographical error on page 3, line 19 after the word "the" that "license" should be "licensee". He said that HB 531 makes additions to two sections of motor vehicle law -- that being 61-2-302 which is the Driver Improvement Program and 61-11-101 which is the section where the judge recommends a restricted probationary license for an individual who has been convicted of a 1st offense DUI and attends an alcohol court school. A copy of his testimony was marked as Exhibit I and attached hereto.

Larry Majerus, Administrator of the Motor Vehicle Division, Department of Justice, testified in support of the bill. He submitted a letter written to Mary Crumbaker-Smith, the Bozeman City Attorney, from the

attorney general which points that the attorney general concluded that it is not a misdemeanor for one to drive in violation if the restrictions imposed on a probationary driver's license issued to a first-time DUI offender pursuant to section 61-11-101(2), MCA. As a result of this opinion, Mr. Majerus felt that there should be some legislation introduced to correct this. A copy of this letter was marked as Exhibit J and attached hereto. Mr. Majerus also passed out samples of the probationary Montana driver licenses. They have been attached hereto.

There being no further proponents or opponents, Rep. Kennerly closed. There being no questions from the committee, hearing closed on HB 531.

CONSIDERATION OF HOUSE BILL NO. 609: Rep. Jack Ramirez, sponsor of this bill, stated this bill was probably of interest to lawyers only. It is an act to revise the power of attorney provisions of the probate code to clarify the durable powers of attorney provisions. Durable powers of attorney is a power of attorney that continues after a person's incompetency or in his absence. He said this bill was suggested by the chairman of the Tax Probate Section of the Montana Bar Association. All the bill does is bring the act up to date. He said the durable power of attorney is really a substitute for conservatorship.

There being no further proponents or opponents, Rep. Ramirez closed.

In response to a question of Rep. Rapp-Svrcek about who determines incapacitation, Rep. Ramirez stated that there is a statutory procedure that determines incapacitation.

Hearing closed on HB 609.

CONSIDERATION OF HOUSE BILL NO. 353: Rep. Richard Nelson, District #6, appeared and offered testimony in support of this bill. He informed the committee that this bill was requested by the 11th Judicial District Judge in Kalispell. The intent of the bill is to give the definition of burglary and aggravated burglary to coincide with each other.

There were no proponents or opponents, Rep. Nelson closed.

Chairman Hannah stated that due to the press of time, questions would be reserved for executive session.

Hearing closed on HB 353.

ADJOURN: A motion having been made by Rep. Keyser, and that motion having been seconded, the meeting adjourned at 11:03 a.m.


REP. TOM HANNAH

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2-6-85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

2/6/85

HB 357

Highway Traffic Safety
Department of Justice
State of Montana
Capitol Station
Helena, MT. 59620

MOTORCYCLE ACCIDENT FACTS

Highway Traffic Safety
Capitol Station
Helena, Montana 59620

- I. Since the Helmet Law was repealed, motorcycle fatalities have been higher than in the years that the law existed.

.....In 1984, there were 28 motorcycle fatalities - the highest since before 1972.

<u>Year</u>	<u>Motorcycle Fatalities</u>	<u>Motorcycle Registrations</u>	<u>Per 10,000 Registered Motorcycles</u>	<u>All Fatalities</u>	<u>Motorcycle Fatalities As % Age Of All</u>
1984	28	-----	----	238	11.8
1983	24	33,278	7.21	286	8.4
1982	18	33,585	5.36	254	7.1
1981	24	35,470	6.77	338	7.1
1980	24	35,455	6.77	325	7.4
1979	20	29,853	6.70	332	6.0

.....Persons killed/10,000 Registered Motorcycles:

Before Helmet Law (1971-1972) 6.62

During Helmet Law (1974-1976) 3.90

After Helmet Law (1979-1983) 6.56

- II. Other states that have repealed their Helmet Laws have experienced a similar increase in fatalities.

.....Motorcycle fatalities in the fourteen states that repealed their laws during 1977 increased 41 percent, compared with 21 percent in states that retained their helmet usage.

.....In the fifteen states without Helmet Laws that report whether cyclists involved in accidents were wearing helmets, deaths of helmeted cyclists decreased 20 percent between 1975 and 1977. But deaths of unhelmeted cyclists rose 169 percent in the same period.

III. Head injury was more often the cause of death among motorcyclists wearing no helmets.

Montana 1983 & 1984 Motorcycle Fatalities

CAUSE OF DEATH

<u>Helmet Used</u>	<u>Head</u>	<u>Head & Other</u>	<u>Other</u>	<u>Total</u>
Yes	4	3	7	14
No	18	9	11	38
TOTAL	22	12	18	52

Of the 22 motorcyclists killed by head injury, 18 were not wearing helmets.

IV. Helmets reduce the risk of head injury.

.....A 1977 study for the State of Maryland Legislature (A Review of Conflicting Reports Concerning the Safety of Motorcycle Helmets) found that: "of the studies reviewed which provided substantiated, or at least, supportable conclusions, the preponderance of the evidence is such that the following conclusions were made:

1. There appears to be sufficient documentation to support the hypothesis that the use of the motorcycle helmet is a major factor in the reduction of fatal head injuries.
2. There is sufficient evidence that, irrespective of speed, the motorcycle helmet does provide greater protection for the rider who uses one correctly."

.....Research studies refute the argument that helmets interfere with a cyclist's vision or hearing or that helmets increase neck injuries.

V. Opponents of mandatory Helmet Laws have said that knowledgeable motorcycle riders would wear them without being required by laws to do so.

1. During 1982-83, 80 percent of motorcyclists involved in Montana accidents did not have a helmet.
2. A Colorado study showed that after repeal of their Helmet Law, there was a decline in helmet usage from nearly 100 percent to less than 60 percent.

.. Motorcycle accidents are costly to society.

.....Motorcyclists themselves pay only for a little more than 6 percent of their hospital bills. The remainder is from tax-supported funds and health insurance settlements.

.....In a study of Denver General Hospital medical bills, nearly 52 percent of all hospitalization costs were paid by tax-supported funds including the medically indigent fund, unpaid bills, medicare, etc. In six months, the bill to the taxpayer was over \$40,000.

.....Quoting a Federal Judge who said in upholding the Massachussets' Helmet Law, "From the moment of the injury, society picks the person off the highway, delivers him to a municipal hospital and municipal doctors; provides him with unemployment compensation if, after recovery, he cannot replace his lost job, and, if the injury causes permanent disability, may assume the responsibility for his and his family's continued subsistance. We do not understand the state of mind that permits plaintiff to think that only he himself is concerned."

VII. Court decisions have upheld the constitutionality of helmet use law.

.....Thirty-four high state courts, plus the Supreme Court of the United States (Simon vs. Sargent) have said that such laws properly are within the police power to protect individuals and the general public.

VIII. There are a number of sound reasons for mandating helmet usage:

1. The public has an interest in motorcycle accident risks because of the costs that may accrue to society as a result of such accidents.
2. The increased risk or loss of control for the cyclist who does not wear a helmet and protective eye gear constitute a definite hazard to other motorists.
3. Mandating the use of helmets is no more an abridgement of freedom of choice than the mandate that life preservers be worn while water skiing, or that welders use protective eye shields.

616 Woodford St.
Missoula, MT 59801
February 5, 1985

To Whom it may concern:

Having familiarized myself with MOTORCYCLE INJURIES IN MONTANA; Summary of Study, by Wendy Allik, a surgical nurse, and having been touched by the loss of a loved one who died as a result of head injuries sustained in a motorcycle mishap, I would urge you to give most serious consideration to legislation which would mandate use of approved helmets for those riding motorcycles.

Like pending legislation dealing with mandatory seat belt use, there comes a time when society must intervene to demand that proper safety measures be carried out, when it becomes evident that the general public will not be responsible for its own safety. The social and economic costs to society as a result of injuries and fatalities preventable or reduceable by the use of helmets are far too great.

It is my fervent hope that you will carefully research this important issue of helmet use. I urge you to recall the lives lost, which may have been saved by use of approved helmets, and to support this important legislation.

Yours very truly,

Mary Lou Gilman

Mary Lou Gilman,

Mother of three

to Judiciary Committee
Chairman Representative Tom Hannah
House Bill 357

Concerning Bill 357, I believe it should become a mandatory law that persons ~~are~~ riding motorcycles should wear helmets at all times.

As a surgical technician at a Missoula Hospital I have seen the results of many motorcycle accidents, most of these patients wouldn't have made it to surgery if not for having worn a helmet. I have seen helmets save many lives and make many injuries less serious than they could have been. My husband rides a motorcycle very often and there is no way he rides without a helmet.

Please ~~let~~ help us save
more lives

Thank you

L. Fernando CST

Judiciary Committee
Chairman Representative
Joan Hannah

RE: House Bill 357: Requiring motorcyclists and
passengers to wear protective headgear.

Dear Sir:

I support and urge you and all
of the Montana Congress to support and
pass into law House Bill 357- requiring
motorcyclists and passengers to wear
(protective headgear.

As an operating room nurse for the
past thirteen years, I have been
involved with many patients who have
had accidents on cycles. Those wearing
headgear were far ahead of the game
in recovery and return to a normal
life than those who were not. Statistics
prove this.

To the anti-headgear people who
(state it is an infringement on their
rights, I feel they are wrong. It is also a
definite infringement on the rights

of every taxpayer who ends up
paying for welfare, and rehabilitation
for the people who cannot return to
their former life style, because they
did not have the foresight to wear
protective head gear.

Sincerely,

Judy D. Askcraft, R.N.
Head Nurse O.R./R.R.
St. Patrick Hospital
Massachusetts, MIT.

To Judiciary Committee

Chairman Representative Tom Hannah

House Bill 357,

I believe that mandatory helmet laws are necessary not only to protect the riders but also to protect the public from having to pay for the injuries sustained by people who don't wear their helmets.

For example several ⁽¹⁹⁸²⁻¹⁹⁸³⁾ years ago I had a friend who was out riding a motorcycle without a helmet on the highway heading to Alhambra, he was, what he considered a safe driver but he slipped on some gravel and wrecked his bike thus receiving a very severe head injury from his fall. After over 2 years of intense physical therapy he is still not anywhere near the same as before the wreck. Since his parents couldn't possibly afford the massive medical bills the cost was passed on to the state or 'the taxpayers' for his care in the nursing home & all the medical & rehabilitating fees which will last for years.

This is why I support the mandatory helmet laws.

Sincerely

Jama L. Hoffman

February 5, 1985

Judiciary Committee
Representative Tom Hannah, Chairman

Dear Sir,

I am writing to express my concern about the issue of requiring motorcyclists to wear helmets when operating motorcycles.

Unfortunately, as a nurse I see the victims after the accident and injury has occurred. Many of these injuries could have been prevented had protective head gear been worn.

I strongly urge you to support House Bill 357 requiring motorcyclists and passengers to wear protective head gear. Please consider this issue carefully.

Thank you for your time.

Sincerely,

Bonnie Giesner, BSN
Box 48
St. Ignatius, MT.

59865

Tom Briggeman C.S.
965 8th St.
West Riverside
Missoula, MT. 598

Judiciary Committee
Chairman Representative
Tom Hannah

House Bill 357: Requiring motorcyclists & passengers
to wear protective headgear.

Many people do not see the tragic results
of a trauma accident involving motorcycles.
You can usually recover from fractured extremities
but not from massive brain damage. Helmets do
not guarantee your life but they give you
and the innocent passenger a chance!

I also firmly believe snowmobilers, three
wheelers, go-carts etc. should be required to wear
helmets.

If everyone could see the results that
arrive in surgery - young children with crushed
heads - they would all be believers.

Thank-you

Y. M. B.

TO: HOUSE JUDICIARY COMMITTEE
FROM: DAL SMILIE
RE: HB-357

I am pro helmet useage but against helmet laws. Recent studies show that 56-80% of motorcyclists voluntarily wear helmets, only 11% of auto owners voluntarily wear seat belts. A recent American Motorcyclist Association poll shows that while most motorcyclists voluntarily wear helmets 75% are opposed to mandatory helmet laws.

There are 48,901 titled motorcycles in Montana and industry figures assume half as many off road motorcycles. Assuming one motorcycle to a household and an average of three persons to a family there are 220,056 Montanans with a motorcycle in the home. If 75% of those citizens and voters oppose a mandatory helmet law it should not be enacted unless there are compelling reasons, are there such reasons?

The U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) has long argued for mandatory helmet laws. However, NHTSA's Fatal Accident Reporting System (FARS) reported in its Motorcycles, Special Report, 1977, "There is no significant difference in the fatality rates of states requiring or not requiring the wearing of a motorcycle helmet".(p.72) A 1980 NHTSA helmet law report to Congress stated; "Adequate data are not available for precise comparisons between states of the effect of helmet laws on motorcycle fatality rates because of the inadequacies and lack of uniformity in state accient collection and reporting systems". A 1979 Utah Department of Public Safety study, Analysis of Motorcycle Safety in Utah, stated "average fatality rates per number of registrations over a ten year period is almost identical for motorcycles and passenger cars". Note that Utah had no helmet law during this period. While I agree that helmets are safer the statistics do not show a compelling reason to mandate a compulsory law opposed by so many Montana citizens.

Usually it is argued by proponents of such legislation that the fáil-ure to wear a helmet places a undue social burden on society to care for the injured. How safe must we become? The same social burden argument would require legislation to require helmets on rodeo cowboys, skiers, bicyclists, auto and tractor drivers, obviously tobacco products should be outlawed and exercise mandated. Joan Claybrook, ex chief of the NHTSA proposed a 35 mph speed limit to save more lives because crash safe cars could be built for that speed, do we need to be that safe? Motorcycles are less than 4% of registered vehicles and a 1974 NHTSA crash severity crash study shows that 24.9% of fatal and non fatal injuries were to the unhelmeted head in crashes but 39.6% of the same injuries occurred with unrestrained auto drivers. Clearly the social burden theory supports helmets for auto drivers, to do otherwise in the face of these

statistics is to deny equal protection when limiting rights of citizens. Helmet laws were ruled unconstitutional in Illinois in 1969 and Nevada in 1984. Twenty-eight additional states have very limited or no helmet laws.

In a 180° turnaround NHTSA now suggests that motorcycle fatalities can best be lowered by training and improved licensing. The 1983 study does not even mention mandatory helmet laws. Fourteen states have implemented rider funded motorcycle safety training. Such training takes 8-20 hours and is supported by \$1-5 of motorcyclist's registration fees. The federal study shows that such training equals 3-4 years of experience. Since 1980 motorcycle fatalities have been dropping nationally, that probably reflects the aging of the population and the consequent additional rider experience.

Do we need compulsory helmet laws? No. Do we want one? Clearly 75% of those concerned do not. Can you imagine farmers and ranchers wearing helmets while irrigating and crossing or running down a county road? Montanans resent paternalistic laws forcing them to restrict their liberty for no compelling reason.

Hawaiian GIs get reamed by their CO

Never kid yourself into thinking that the fact that you are ready to fight and die for freedom entitles you to have any.

This message was rammed home to bikin' members of the 25th Infantry Division stationed in Hawaii when their commanding officer, Major General Claude Kicklighter, threatened to prosecute any GIs in his command if they were caught riding a bike without wearing a helmet — on or off the base.

Following are excerpts from Kicklighter's "General Order Regarding the Wear of Motorcycle Helmets Off-Post:

1. The purpose of this general order is to set forth standards of conduct for military personnel assigned or attached to the 25th Infantry Division concerning the wear of motorcycle helmets off-post.
2. During the last three years, eight Division soldiers have been seriously injured or died as a result of motorcycle accidents. Four of the soldiers were not wearing helmets while riding their motorcycles off-post.
3. Repeated studies have proven that motorcycle accidents are usually the fault of automobile drivers rather than motorcycle drivers. Motorcyclists are less protected than automobile drivers and normally suffer more severe injuries when involved in an accident. Head injuries are the most common cause of motorcycle fatalities. For this reason, all personnel driving or riding as a passenger on a motorcycle, motor scooter, or similar motorized vehicle on-post are required to wear a properly fastened helmet.
4. Motorcycle helmets have been proven to prevent fatal head injuries when worn, yet the state of Hawaii does not require drivers or passengers of motorcycles who are 18 years or older to wear helmets off-post. For this reason, pursuant to this letter, I am ordering all soldiers in the 25th Infantry Division subject to my authority as General Courts-Martial Convening Authority to wear a safety helmet whenever and wherever they either operate or ride on a motorcycle, motor scooter, or similar motorized vehicle. The helmet will be properly fastened under the chin and meet the standards of one of the following:
 - a. The Shell (sic) Memorial Foundation.
 - b. The ANSI Z90.1-1971.
 - c. Federal Motor Vehicle Safety Standard Number 218.

Harley wins industry praise for hi-tech production lines

Harley-Davidson's brand-new "materials-as-needed" approach to building bikes is winning the company much praise from others in the manufacturing community.

Formerly considered a blacksmith shop in the age of automation, Harley is showing the world that you don't have to eat fish heads and rice to operate an assembly line in an efficient and innovative manner.

That doesn't mean, of course, that we can't learn a thing or two from the sushi-and-soy-sauce set. Harley executives freely admit that the MAN system they've developed is an improved version of the Japanese Kanban method of inventory management and quality control.

As we told you before, the MAN system relies on strict coordination between Harley parts suppliers and in-house parts-and-accessory-building departments to insure that every bit and piece required to build a bike arrives at the right place on the assembly line at

just the right time. Production is scheduled so that the part required may be in construction at the same moment the bike it will go on is moving down the line. At exactly the right time and place, they meet up for assembly.

Using flow-processing instead of the old batch-processing (building a bunch of shit and storing it) method, H-D has been able to dramatically reduce setup times. Making gas tanks, for example, used to require four weeks of retooling. Now it takes two days.

A highly complimentary article in the trade magazine *Material Handling Engineering* noted that the MAN system enabled Harley to reduce its break-even point by 32%, cut its investment in inventory from \$23 million to \$8½ million and, most important to bikers, produce a better product. Warranty claims have dropped substantially and a dealer quality audit found a 24% decrease in bike defects.

5. Violations of the provisions of this order provide a basis for disciplinary action under the Uniform Code of Military Justice for personnel subject to its provisions. Violations of this order may be prosecuted under Article 92, or other appropriate Articles of the Uniform Code of Military Justice, and administrative action may be taken in accordance with applicable directives.

A quick reading of the above manifesto tells you more than you'll ever want to know about the military mind. For one thing, General Kicklighter conveniently ignores the fact that

just as many serious injuries were suffered by soldiers wearing helmets as by those who weren't. Also, in contravention of U.S. traditions of civilian control over the law, the generalissimo assumes he is better qualified to judge what's best for bikers on Hawaiian highways than that state's legislature. And, if all that wasn't enough, he also makes the outrageous statement that "Motorcycle helmets have been proven to prevent fatal head injuries," which they most certainly have not. Maybe somebody ought to show him the "helmet facts" printed below.

A helmet law fact kit

Nineteen hundred eighty-five is almost upon us, and with it, new legislative sessions for lawmakers throughout the United States. Those of you living in states with mandatory helmet laws will be renewing the battle to win your freedom of choice. The rest of us have to fight to keep our freedom. Here, from ABATE of Georgia, is a list of helmet facts every lawmaker should be made aware of.

- State accident statistics verified by the AMA and the Motorcycle Safety Foundation show that Iowa, Wisconsin, South Dakota and Kansas are the four safest states to ride in. None of them mandates lids for adults.
- The federal Department of Transportation has admitted that no helmet on the market can reject impact stress above 13 miles per hour.
- In one DOT test, 90% of all helmets tested were defective.
- A study by the University of Utah Speech and Hearing Clinic found helmets restrict hearing and distort sound direction, thus creating confusion.
- The American College of Surgeons says that improperly taking a lid off an injured person may cause paralysis.
- Dr. D. M. Kuland of Rhode Island Hospital reports that a concussion with no fracture can be caused by a helmet and lead to massive internal head swelling.
- In 1980, states with helmet laws had 9.59 deaths per 10,000 bike registrations. States without such laws had 9.20 deaths per 10,000 registrations.
- Rhode Island had a 166.7% increase in bike-related fatalities after putting its 1971 helmet law into effect.
- Automobile drivers and passengers suffer a far greater number of head injuries than bikers, but no one is suggesting they should be forced to wear helmets.
- Serious and/or fatal neck injuries in New York state increased by 75% during their helmet law's first year.
- In New Jersey, deaths soared 340% after a lid law passed.
- Temperatures can reach 130 degrees inside a helmet.
- Bikers voluntarily use helmets 60% of the time anyway; cagers only use seatbelts 10% of the time.
- A study by the Utah Highway Safety Department showed helmet usage does not significantly affect the severity of head injuries.
- The State of Kansas Health and Environment Department reported that it could find no evidence of increased motorcycle fatalities after repeal of helmet laws.
- Testing at the University of Technology in Sothenberg, Sweden, established that helmets slide only two thousandths of a second before grabbing. Such sudden stopping of the helmet twists the head and may cause the brain to move inside the skull, rupturing arteries and causing permanent brain damage.

To: House Judiciary Committee
From: Kevin Dolan
Re: HB 413

As someone who has been working with and under the Open Meetings Law, I would like to urge you to support and pass House Bill 413.

I feel that the repealment of the collective bargaining and litigation exception is essential to the people's need and right to know, and respond, to the actions and deliberations of government.

For three years I was a reporter and editor for the ASMSU Exponent and I am now an intern with the Bozeman Daily Chronicle. I must note that in this testimony, I am not speaking on behalf of the Exponent or the Chronicle.

First and foremost, I think these two exceptions should be repealed because they are unconstitutional. The only exception to the right to know in the Constitution is for individual privacy, and not for either of these exceptions. Collective bargaining or litigation do not involve individual policy, and if there ever was a case in which privacy rights were involved, the meetings could be closed if it met the necessary requirements. In fact, in November of 1983, the District Court Judge Arnold Olsen ruled that the litigation exception was unconstitutional.

Beyond the obvious constitutional problems with the exceptions, there are many other reasons I feel they should be repealed and I will address those one at a time here for clarification.

The main reason is I think the collective bargaining exception should be repealed is that in discussion strategy, a board is setting its priorities. For example, in the case of school boards, at the beginning of negotiations, they will outline what is most important to them. And then in the end of the negotiations, when it comes down to the final give and take, the board must either go with a certain salary increase or another policy-type issue, such as just cause, retrenchment, or binding arbitration. By making their final decision, they are setting their priorities for the district, and the public usually has no idea why they have set those priorities.

This usually forces the public to focus only on one, simple area -- salary increases -- which is easy for them to comprehend and compare to other salary increases, but away

from the context of priorities set by the board behind closed doors. Repealment would give the public knowledge of public officials' priorities and their basis and background for them, so the public can react to them responsively.

One of the biggest problems with these two exceptions is that they are often broadly interpreted. The biggest problem is that potential litigation is often discussed in executive session, and even in some cases, conciliation. For example, over the past year, the school board in the state closed portions of two meetings under the litigation exception. No lawsuits had been filed, and in one case, the board was going through a conciliation procedure outlined in state law for the dismissal of a teacher.

The case of the dismissed teacher drew much concern from the community, which could not understand why a previously fired teacher was re-hired. Open discussion of the case would have made the public better informed about the facts of the situation and given them enough knowledge to know how a similar situation could be avoided in the future.

In summary, I admit that repealing these exceptions may seem obstructive to an expedient operation of government. It is easier to discuss things in private, especially matters involving these two areas.

However, I must stress the fact that the right to know is a constitutional right, and must not fall way to government expediency. The exclusionary rule, for example, does not lend to expedient police work, but it is necessary to protect a constitutional right. The right to know is just as important.

Unfortunately, it took a long time and many abuses of constitutional rights before we got many court rulings saying that government expediency must sometimes fall way to certain rights. Although the right to know is a relatively new right, let's not wait several years for too many abuses to occur before we realize how important the right to know is.

I urge you pass HB 413 and protect a basic constitutional right that is necessary for our citizens to participate in an effective, well informed, and responsible democracy.

Feb. 6, 1985

Testimony of David Fuselier, managing editor, Independent Record

Re: HB 413

Someone once said where there is a law, there is a loophole. I think it was a tax attorney. I don't believe it has to be true, especially in the case of the Open Meetings Law.

In recent sessions great progress has been made in closing the loopholes in the law, but as Mike Greely noted in 1978, "some public officials seem bent on divising increasingly clever ruses" to avoid it.

The latest avenue, the one of most concern to me, is closing meetings to discuss a strategy with respect to possible litigation. The Helena City Commission did that. Other boards in the area have tried it.

It's a bottomless loophole. Anything is subject to possible litigation. It could be used to justify any closing. It thwarts the intent of the law, which is to allow citizens to scrutinize the deliberations and actions of their public officials.

The point I want to make here is that the Open Meetings Law is a law nobody wants to litigate. Teachers who get shut out of school board meetings don't want to litigate it because their careers are on the line. Private citizens don't want to tackle the legal morass. Newspapers don't like to spend the money or alienate the members of boards with whom they have to work day after day.

And the vast, vast majority of public officials in Montana don't want to be found in violation of the law. It's just not Montanan to be secretive in your public duties. The vast majority of public officials in Montana are good people who will readily and willingly obey a law which they understand.

That law will work best which is simple, clear and straightforward. The law will work best when it contains no fuzzy provisions which are subject to argument, interpretation or alibi.

If you wrote the perfect open meetings law, I believe it would accomplish its goal of open, honest government in Montana without ever being litigated. That to me is the ideal law. A law so simple and so clear that no law abiding citizen can misunderstand it or misuse it.

I believe HB 4134 will help simplify the law and I believe it will accomplish the intent of the law while reducing the number of confrontations and the amount of litigation which now occurs.

Mr. Chairman and members of the committee, thank you for your attention. My name is Rob Dean. I am managing editor of the Bozeman Daily Chronicle. I support House Bill 413 that would remove the litigation and collective bargaining exemptions from the Open Meetings Law.

In drafting and approving the Montana Constitution, your neighbors and mine wisely ^{endorsed} ~~used~~ strong language to guarantee the public's right to know. It says public bodies should meet in the open unless the demand for privacy clearly exceeds the ~~body's~~ interest of public disclosure. But the Open Meetings Law has contradictory language, specifying two cases when a meeting may be closed. I think the exceptions to discuss litigation and collective bargaining violates the presumption of openness in government.

There are times when the public's right to know comes in conflict with ~~a~~ a body's interest in discussing strategy with its lawyer or contract negotiator. However, the Open Meetings Law specifies that when rights conflict, business is to be done in open unless the demand for privacy clearly overrides. Furthermore, the rights to privacy and to know are individual rights. The interest in closing a meeting belongs primarily to the body doing the public's business. I believe the law exists to protect the individual's ^{not the media's} rights against the power of government bodies.

The argument that meetings must be closed to keep the ^{opposing} ~~other~~ side in a lawsuit or a negotiating session from

learning strategic secrets seems weak to me.

For example, lawyers for the state of Montana face litigation daily. They can plan strategy with members of the executive branch and legislative leaders without taking the full legislative body behind closed doors.

Instead of being instruments ~~of~~ for legitimate closure of meetings, the litigation and collective bargaining exemptions have become excuses to close meetings. ~~Therefore~~ If ~~you~~ expanded, the definitions of those exemptions, litigation and collective bargaining become pending litigation and potential negotiating points. In that case, virtually any matter before a public body becomes a subject for closed-door discussion. This is what we see happening with increasingly disturbing frequency. "Potential" litigation has become a catch-all justification for closing out the public.

I urge you to ^{make} ~~bring~~ Montana law ~~into~~ ^{make} consistent with the Constitutional right to know provision.

I urge you to support House Bill 413.

Rob Dean

Rob Dean

Bozeman, Montana

DEPARTMENT OF ADMINISTRATION

STATE PERSONNEL DIVISION



TED SCHWINDEN, GOVERNOR

ROOM 130, MITCHELL BUILDING

STATE OF MONTANA

(406) 444-3871

HELENA, MONTANA 59620

TESTIMONY OF ROD SUNDSTED, CHIEF NEGOTIATOR
FOR THE EXECUTIVE BRANCH OF STATE GOVERNMENT
IN COLLECTIVE BARGAINING, IN OPPOSITION TO HB 413

Mr. Chairman, members of the committee, I appear before you today in opposition to HB 413.

In 1973, collective bargaining for public employees in Montana was enacted. This act, which was modeled after the National Labor Relations Act, states that it is the policy of the state of Montana to encourage the practice and procedure of collective bargaining to arrive at friendly adjustment of all disputes between public employers and their employees. I believe that collective bargaining has served its purpose well since 1973.

I am concerned that HB 413, if passed, would seriously hamper the collective bargaining process for public employees in Montana. As you are aware, collective bargaining is a process of "Quid Pro Quo" whereby each side makes compromises and concessions in return for compromises and concessions of equal value by the other party. This is a delicate process which generally results in a mutually acceptable agreement by both parties.

HB 413 would open up collective bargaining strategy sessions. These strategy sessions may include discussions of the compromises that can be made during negotiations, the trades that will be offered, the parameters of negotiation including the bottom line on total dollars that can be expended. If one party to the collective bargaining process has access to the strategies and parameters of the other party, collective bargaining as developed through the years will simply not work.

I urge you to give HB 413 a "Do Not Pass" recommendation.

Exhibit H
2/6/85
HB 532

PAUL'S CUTTERS

It seems our parking lots
Are the cause of verbal shots
The the nuts and bolts of life
End up with bolt cutters and strife.
What brought this crime on
And who answered the call
The villian was Diamond
And the hero was Paul.

Unchained melody on Pistoria's lips

Paul Pistoria declared himself the bane of barrels in Great Falls during Tuesday's city commission meeting, telling city fathers he would cut the chain attaching an overtime parking barrel to his car in any off-street parking area operated by Diamond Parking, Inc.

Pistoria, leader of the Save Great Falls Club and recently elected a state representative, said the attachment of 55-gallon drums to cars that park overtime in the privately operated off-street lots "is the silliest thing I ever heard of."

Pistoria, who is one-armed, said he had tested a recently purchased set of bolt cutters and found he can easily cut chains with them — and will do so if a barrel ever is attached to his car for inadvertent overparking.

Moreover, he said, he would go to jail rather than pay any fine attached to such an infraction.

City Commissioner Bill Scott

said humorously, "They wouldn't bother with your car anyway, Paul," referring to Pistoria's older-model Rambler.

"I know it's identifiable," Pistoria replied.

Prompting Pistoria's remarks was a recent city commission action to turn over enforcement of on-street parking regulations to Diamond as well as operation of the off-street lots.

The city's cost of enforcing on-street regulations costs about \$90,000, Pistoria said, and Diamond had offered to take over the service for about \$68,000.

"Who owns the City of Great Falls, anyway?" Pistoria asked aloud. "All of us do," he said.

The city installs the parking meters and provides and maintains the streets, he said, so why should the parking regulations be enforced by an out-of-state firm which will take the profits out of the state as well.

VIOLATOR IMPOUNDED

IN PLACE



DO NOT MOVE CAR

DAMAGE WILL OCCUR



ALL PARKING MUST BE PAID IN ADVANCE

Service Charge \$20.00 Plus Parking

CALL 761-6111 FOR RELEASE



The Big Sky Country

1

MONTANA STATE HOUSE OF REPRESENTATIVES

REP. PAUL G. PISTORIA
DISTRICT NO. 39
2421 CENTRAL AVE.
GREAT FALLS, MONTANA 59401

Aug. 1, 1984

COMMITTEES:
LOCAL GOVERNMENT
EDUCATION
STATE ADMINISTRATION

Mike Greeley, Atty General
Justice Center
215- North Sanders
Helena, Mont.

Dear Mike:

Enclosed 3 articles & a copy of Diamond Parking Violations^{copy} used on vehicles for over parking (all on me against them).

Imfighting against "Diamond" parking since 1976 here in Great Falls due to their violation policies.

The City of Great Falls used to operate the Private parking lots themselves on a percentage basis (receiving approx \$20,000 to \$150,000 Revenue Per yr, but they got rid of them & the Private parking lots. Instead the Private owners gave them to Diamond Parking a Seattle firm, the City did make a mistake.

The City then entered into an agreement with "APOCA" to handle the parking on Avenues, Streets & City owned parking lots with city police powers to ticket vehicles. However they weren't satisfied with Diamond in 1977. In fact Helena got rid of

Diamond parking & run it themselves receive all of the revenue. Great Falls should do the same.

It now looks like the City of Great Falls are looking into it because they lost much revenue & has hurt the City's PR & his satisfaction of Diamond's policies.

But, during all these years, Diamond have a policy of attaching a 55 gal barrel to the rear end of a vehicle, with a chain or cable by using a lock.

They place a violation card on windshield of the vehicle as shown in the enclosed copy. A \$20.00 service charge plus a parking fee of \$5.00 up to \$14.00 or total of \$25. or \$34 must be paid before they unlock the chain or cable from the vehicle, which has caused much confusion & dissent. Note - also on placard it doesn't mention Diamond.

You can see from the enclosed articles I have been after them for sometime. Actually they can't prosecute anyone. No policing powers. In fact the City or the County atty will not prosecute anyone. No one has never been prosecuted. It's just a terrible harassment & scare. Yes, I have removed several barrels mostly for women.

money
- for
No one knows who receives the violations for over parking, whether it's "Diamond" or Private owners. This is terrible.

If the City would again take over the Private parking spaces the whole problem would

(3)

be solved.

On Thursday - July 26, 1984 I attended the City Parking Commission Meeting, expressing my views against Diamond Parking they were sympathetic to me & agreed with me, I also suggested an Ordinance can be adopted for Diamond Parking to meet the same rules & policy as the City uses, I am sure this can be done. But, they decided to receive an opinion from your office, the article marked (3) explains enclosed.

The articles enclosed are self explanatory.

I thought by sending this material & my views might help you in making your decision.

Thank You.

Sincerely yours,

Paul G. Astoria
State Representative.

STATE
OF
MONTANA

**ATTORNEY GENERAL
MIKE GREELY**

JUSTICE BUILDING, 215 N. SANDERS, HELENA, MONTANA 59620
TELEPHONE (406) 444-2026

*Recd Tues. Aug 28
1984*

27 August 1984

Representative Paul Pistoria
2421 Central Avenue
Great Falls MT 59401


Dear Paul:

Thank you for your letter and attached newspaper articles concerning the dispute over procedures followed by Diamond Parking officials when ticketing and immobilizing vehicles whose parking fees are overdue.

The Great Falls City Attorney's Office has not yet requested my opinion on this matter. I will keep your letter and attachments on file for future reference should questions on this matter be submitted for my consideration.

I appreciate your taking the time to share your views with me on this matter.

Very truly yours,


MIKE GREELY
Attorney General

FOR - THUR - AUG. 23, 1984 - 8:30 AM, PARKING
COMMISSION MEETING AT THE CIVIC CENTER:

BRING UP THE FOLLOWING 3 - RECOMMENDATIONS

- ① - By removing parking meters or leave on a trial Basis - try 2 hr. Parking - chalk tires. me & everybody that I talk to believe that the meters does cause bad down town Business. This would help down town Business, it scares people.

No doubt you would lose some Revenue. But, it is the only way to create better down town Business climate. Help save down town.

- ② - I still urge that the City try and again, as before take over the Private Parking lots. The City Commissioners & Chris cherches mgr. Couldn't see no further than their nose, when they gave up the Private Parking lot. They then ^{were} using Diamond Parking. The City lost \$120,000 to \$150,000 per year Revenue. It didn't make since & was trouble. If the City ^{had} continued you wouldn't have the Barrel Problem.

Naturally by the City taking over the Private lots again on percentage Basis the Barrel Problem would be solved.

Even at your July 26th meeting Bob Luty, Public Works Director stated they were pursuing it. Action speaks louder than words. Go & Do IT. Diamond Parking has given the City of Great Falls a Black Eye. The City should receive the needed Revenue. Not DIAMOND Parking. The Profits leave Great Falls & goes to Seattle, Wash.

- ③ - I STILL URGE the City of Great Falls to at least (I request the City go to the Atty General Mike Greely for an opinion) is the City can

②

adopt an ORDINANCE whereby Diamond
Parking comply with the same city rule
violations as the city has to charge on over
parking. This would also eliminate the Barrels
& quit scaring & harassing car owners.

This will also start bringing down ^{town}
Business, again. Definitely so.

I will never give up on Diamond Parking
(Drive them out of town) until the City does
something to correct this terrible unconstitutional
problem. How in the hell can ~~you~~ they
do what they want to scare & harass the
Car owners? Lets stopped it.

I will keep it up until a solution is
found as I have suggested. I don't think
you will stop me as long as I am constructive.

^{Drive} Many have approached me to start a petition
against Diamond Parking. But I feel this can
be resolved once & for all by keeping talking.
Thank you.

Sincerely yours,
Paul G. Fistera
State Representative.

Let - June 21, 1984
Juen 21, 1984

Rec'd - June 26, 1984 8:30 AM
at City ~~Council~~ Parking
Com. Meeting
from Jerry Frazier

Ken Eichner, Vice President
Diamond Parking, Inc.
3161 Elliot
Seattle, WA 98121

Dear Mr. Eichner:

* Our Downtown Business Council has a great deal of concern about parking facilities in downtown Great Falls. We have a committee which deals specifically with parking and with government related issues. When members of that committee became aware that I had a barrel chained to my car, albeit an error, the members asked that I write directly to you about a question they have.

It has been the position of the City Attorney here that Montana State law does not permit impounded with less than five days notice for any vehicle parked where it has become unwelcome, shall we say. Our committee has long felt that a faster response time is required to be effective in parking control downtown. Has your company had an attorney research that question in Montana? We would love to have your comments on the situation.

Diamond manages so many lots in downtown Great Falls that another question has arisen as to who has the clean-up responsibility for privately held lots whose owners have contracted with Diamond for management. There is not a lot of problem with clean-up, but occasionally we are aware of one or more lots ~~which~~ allowed to remain littered and we would like to know with whom we should be talking.

Thank you for all your assistance.

Yours sincerely,

Kay L. Maloney
Executive Director

When you are in Great Falls, you would be most welcome to meet with our committee or to attend the full membership meetings.

INTER-OFFICE MEMORANDUM

FILE: W/S #7 (a)

Nov. 15, 1983

CITY OF GREAT FALLS, MONTANA

*Rec'd. from Al Johnson, Mayor
Thurs. Nov. 15, 1983
at Study meeting*

TO: City Commission

DATE: November 8, 1983

FROM: David Gliko, City Attorney

REPLY REQUESTED ON OR BEFORE:

SUBJECT: "Booting" of Vehicles on Private Lots

The question has been raised as to the propriety of "booting" vehicles on private lots where there has been a failure to pay the parking fee.

In the past, the issue has been raised with regard to enforcement of parking on public lots. At that time, our review of the law determined that "booting" would violate the basic concepts of due process under the Fourteenth Amendment. That conclusion is drawn from a number of U. S. Supreme Court decisions as follows: The Fourteenth Amendment places procedural constraints on government action that works a deprivation of property interest. Memphis Light, Gas and Water Division vs. Kraft, 436 U.S. 1, 9 (1978). Due process requirements must be satisfied even for temporary deprivations of property. Fuentes vs. Chevin, 407 U.S. 67, 86 (1972). The possession and use of the motor vehicle is a property interest. Stypmann vs. City and County of San Francisco, 557 Fed 2nd 1338, 9th Circuit (1977); Hann vs. Carson, 462 F Supp 854, 866 (1978).

Essential to the concept of due process under the Fourteenth Amendment is the requirement of notice and an opportunity to be heard prior to effecting any confiscation or restriction of use by the State, i.e., the City. A "boot" placed on a vehicle found to be parked without payment of parking charges does not pass constitutional muster since the owner of the vehicle is not given notice or an opportunity to be heard prior to the restriction of use of his vehicle. However, it must be pointed out that the constitutional protection under the Fourteenth Amendment is directed toward "State" action (City action) and is not directed toward individual private parties.

In this case, the action taken by the owners of the private lots are not subject to the limitations imposed by the Fourteenth Amendment. On the other hand, they may be liable for civil trespass or a misdemeanor charge of criminal mischief which could be brought by the owners of the "booted" vehicles.

* In any event, the private parking lots, privately owned and operated, do not fall within the jurisdiction of the City's public streets, ways or grounds. Therefore, the City has no authority to interfere with the operation of such private enterprises and could well be subject to legal liability if any intervention was attempted.

gb

TRIBUNE-~~Nov. 22~~. 27, 1984 - Page 1-B

Diamond eases its barreling policy

By RICHARD ECKE
Tribune Staff Writer

Diamond Parking has relaxed its parking enforcement rules in private parking lots downtown, local manager Larry Ort said Friday.

Ort said the parking enforcement firm has decided not to attach barrels to violators' cars until a second or third offense. In the past, barrels were attached for a first offense.

Fines will be reduced as well, he reported.

In the past, a first-offense ticket from Diamond Parking cost \$3 plus the unpaid parking fee. That's been reduced to \$1 plus the fee, Ort said.

The new moves are an "experimental deal," and may be only temporary if the firm encounters too many enforcement problems. But if customers cooperate, the new rules should stick, he indicated.

Diamond's peace offering comes after some heated debate over the firm's practice of attaching barrels to cars. The city, which has five downtown parking lots of its own, does not use barrels on advice of the city attorney.

But city officials say they can do nothing about how a private firm en-

forces its parking.

Diamond officials explained earlier that the barrels are an alternative to vehicles being towed, a procedure that would cost a violator even more money than the barrel method.

In any case, the new relaxed policies have already sharply reduced the number of barrels being attached to vehicles by Diamond, Ort said.

Diamond attached barrels to some 70 vehicles in September, but this month has only attached barrels to five or six vehicles that were habitual violators, he said. As a last resort, the firm has a car towed away, Ort reported.

Diamond is hired by downtown property owners to police private parking lots. Diamond handles 22 private self-parking lots downtown, Ort said.

"We're not here to try and fight with anybody," Ort said.

Barrels remained on the minds of city parking commissioners Thursday at the group's monthly meeting.

The topic arose as proposed new signs for the city's off-street downtown parking lots were unveiled. Small blue signs would point the way

to the five downtown city lots, while larger blue signs would feature a map showing the city-owned lots.

Commission member Ardis Jerome joked that the city should add the words "no-barrel parking" to the signs.

Commission member Dan Short said most people don't understand that the city owns just five off-street parking lots downtown, and residents often complain about the numerous private parking lots over which the city has no control.

"I think the city is suffering mightily," Short said.

"The heat should be on the individual that owns the lot," commission Chairman Jim Purdy said, referring to the barrel controversy.

Duty said placing signs on the city lots should help identify which lots are owned by the city. Total costs of materials for the signs will be \$1,500, city parking official Mike Wyatt said.

The signs may be posted by Thanksgiving, Duty said.

Wyatt noted Diamond's new relaxed policies at the commission meeting.

TRIBUNE - Wed Aug. 29, 1984 - FRONT-PAGE

Complaint against Pistoria dropped

By FRED MILLER III
Tribune Staff Writer

Rep. Paul Pistoria, D-Great Falls, was cited for criminal mischief Monday after allegedly cutting a Diamond Parking Inc. barrel off a car with bolt cutters, although Diamond dropped the complaint Tuesday.

No charges will be filed.

Pistoria, who has said the practice of attaching 55-gallon barrels to illegally parked cars on Diamond lots is "terrible" and "unconstitutional," denied he cut the barrel.

"I didn't do it, someone else did," he said. "I didn't cut no barrel off a car. I was with somebody, a man who owns a store downtown, who had a barrel on his car. I was with him."

Pistoria has said he would cut the barrels off for anyone who calls him.

According to police, a Diamond employee attached a barrel to an overdue car on a lot at 520 1st Ave. N. about 9:47 a.m. Saturday. Around noon, that employee told police she

saw Pistoria and the man cut the lock off the cable attaching the barrel to the car.

Police received the report Monday and issued a notice to appear, citing Pistoria with criminal mischief by destroying private property. However, local Diamond manager Larry Ort withdrew the complaint Tuesday after consulting with Diamond's Seattle headquarters.

"We don't want to make an issue out of this," said Ken Eichner, Diamond vice president in Seattle. "The owner of the car has paid us for the lock and paid the parking he owed. Our issue has been settled."

Pistoria claims state law doesn't allow the impounding of vehicles without five days' notice. He requested an attorney general's opinion at a July 26 parking commission meeting.

However, an opinion issued in 1977 still stands, according to City Attorney Dave Gliko. That opinion said "there are no Montana statutes

which grant local governmental units authority to regulate parking on private property."

Eichner said attaching the barrels is less expensive than towing vehicles away, and that any increase in costs would be eventually passed to the consumers.

"As a responsibility to private owners of the lots, we have to collect fees," Eichner said. "We believe the best thing is for the public to pay for the parking in advance. If they don't, there has to be some recourse for property owners, and we don't want to tow cars away because it's so expensive."

However, Pistoria has said he will not quit.

"I will never give up on Diamond Parking until the city does something to correct this terrible, unconstitutional problem," he told an Aug. 23 parking commission meeting. "How can they do what they want to scare and harass car owners? I will keep this up until a solution is found."

IMPDOR TAX T
Sunday, November 20, 1983

Dated with me
Great Falls Tribune 3-B

City attorney says private lots may 'boot' overparked cars

By PETER JOHNSON
Tribune Staff Writer

While U.S. Supreme Court rulings apparently make it illegal for city government to attach barrels to cars overparked in parking lots, City Attorney Dave Gliko said last week that such rulings do not necessarily apply to privately owned parking lots.

Gliko advised the City Commission in a legal memorandum not to take any action to interfere with this "booting" practice being performed at some privately owned downtown lots by Diamond Parking, which enforces parking regulations on the lots for their owners. APCOA, which enforces regulations for the city's on-street meters and off-street lots, does not boot cars.

(Technically, the term "boot" applies to a specific device that immobilizes a vehicle by locking an axle. It is more sophisticated than Diamond's barrels, but its effect is the same.)

City commissioners agreed not to intervene, to the irritation of state Rep. Paul Pistoria, D-Great Falls, who has attacked the booting practice. Pistoria vowed to introduce a bill in the state Legislature making

booting illegal for both private and public lots.

In his memo, Gliko said the city decided a number of years ago to stop booting cars because of U.S. Supreme Court rulings determining that the practice violates the basic concepts of "due process" under the Fourteenth Amendment to the U.S. Constitution.

The Fourteenth Amendment places constraints on what actions government may take to deprive people of their property interest, he said. Court rulings have found that use of a car is a property interest and that due process steps must be followed by the government if a person is even temporarily deprived of property.

Gliko said a boot placed on a car for failure to pay parking fees "does not pass constitutional muster" since the owner is not notified or given a chance to be heard before his or her car is booted.

But, Gliko stressed, the Fourteenth Amendment protections apply only to booting by government agencies, not private companies. On the other hand, he said, persons whose cars are booted on private lots may be liable for civil trespass suits or

misdeemeanor charges of criminal mischief that would have to be filed individually by the owners.

Since the private parking lots do not fall within the city's jurisdiction, the city has no authority to intervene, Gliko said, and it could be sued itself if it tried.

Pistoria contended the city has a right to stop booting in any lot, and called it "a terrible thing" that individuals have to go to court personally to settle a dispute over booting.

Diamond Parking manager Rich Modic has said the company doesn't boot cars until they're found to be in violation a second time. Vehicle owners are charged \$20 to have the barrels removed. Some people have cut the barrels from their vehicles, he said, but in the future may be confronted with misdemeanor charges of destruction of private property and theft of services.

In another parking matter, commissioners Shirley Kuntz, John St. Jermain and Lee Nelson said they may favor extending the length of time visitors go without receiving parking tickets from a half-hour to two hours. The commissioners suggested the Parking Commission study the question.

Foutz proposes nuclear waste plant in Great Falls

taken off. He questioned the legality of the barrels and said the city has an obligation to do something to stop the practice.

Commissioner Bob Worthington and others were initially skeptical. Worthington said city intervention in operation of the private parking lots would be similar to the city telling a clothing store how much it can charge for its suits. **NW**

X City Attorney Dave Gliko said court cases have challenged the legality of the barrels, which is why the city no longer uses them at its parking lots.

City Manager Al Johnson said city staff will check whether the city can do anything.

Rich Modic, Diamond Parking's local manager, said in a later interview that the company does not immobilize a vehicle the first time its owner fails to put money into the slot or overstays the allotted period. But the firm takes the position that an owner involved in a second offense has in effect been gambling he can park on private property without getting caught. Parking-lot signs and ticket warnings advise motorists that failure to pay can result in their vehicles being immobilized or towed away, he added.

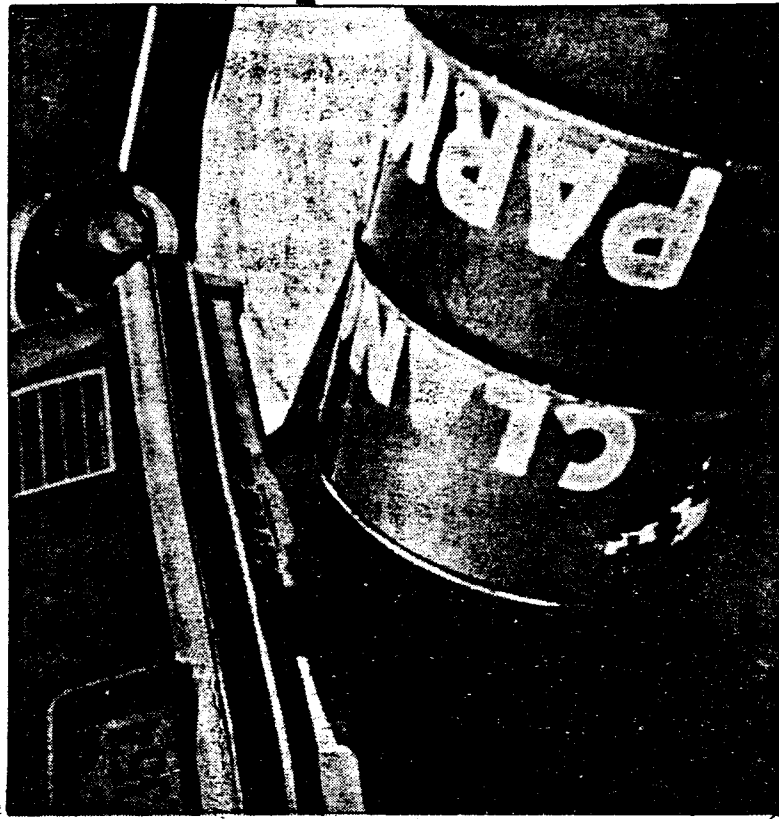
The firm has recently started writing more tickets on vehicles parking in its lots at nights, when payment is still required, he said.

Immobilizing involves attaching a 55-gallon barrel to the vehicles with a cable and a padlock, he said. Modic, who's been at his job for just a

Pistoria, a state legislator and former member of the old city council, has appeared before the commission for years on numerous topics. Tuesday he returned to a familiar one: opposition to Diamond Parking's policy of "immobilizing" vehicles overparked in the parking lots it regulates by attaching large barrels to them.

In the mid-70s, when Diamond Parking was regulating parking at city lots, Pistoria objected to the use of the barrels. Though he lost an arm in an industrial accident many years previous, Pistoria bragged then he was still able to cut the cables attaching the barrels with bolt-cutters.

Diamond no longer regulates the city lots, but is using the barrels at the privately owned lots it regulates, Pistoria said. He called it "outrageous" that Diamond can immobilize a car for a violation and require the owner to pay \$20 to have the barrel



Rep. Paul Pistoria complained about barrels like this one attached to the car of a delinquent parker. (Paul Pistoria Photo)

month, had no figures of how many vehicles have been immobilized. He said the company sometimes goes days without having to attach barrels to any cars, then might have a period where it immobilizes a car a day for several days.

Modic said three people have cut the barrels from their vehicles and

one even took the barrel. Though Diamond has not yet asked County Attorney J. Fred Bourdeau to prosecute violators, Modic said, the company may soon do so.

The charges could involve destruction of private property, for breaking the cable, and theft of services, for not paying to park, he said.

mark the time...
* Me - Fri - July 27, 1984 - Page 1-C.

Parking board asks for ruling

By FRED MILLER III
Tribune Staff Writer

The Great Falls Parking Commission has decided to seek an attorney general's ruling on whether Diamond parking lots can legally attach barrels to vehicles whose fees are overdue.

State law doesn't allow the impounding of vehicles without five days notice, according to parking commission member Jerry Fraser.

"We'd like to get an attorney general's opinion on whether state law applies to private lots," Fraser said. "If they are operating outside of the law, I'd like to know it."

*The commission was spurred to action by state Rep. Paul Pistoria, D-Great Falls, who said he recently cut a barrel off the car of a pregnant woman. "I cut the barrels off and I'd do it for anyone who'd call me," Pistoria said, explaining that he carries a pair of bolt cutters in his car. "I'm telling you it's unconstitutional, it's vindictive, it's ridiculous. It's got to be stopped."

*"If I had the money I'd take them to court so we could get those rats."

Fraser said a member of the Downtown Business Council sent a letter to Diamond's headquarters in Seattle, stating that Montana law doesn't allow impounding of vehicles without five days' notice.

"We have not had a reply back from Diamond," he said. "They have been evasive and they have not answered our letters."

Pistoria urged the parking commission to recommend that the city pass an ordinance requiring private parking lots to "follow the same rules adopted on city lots for parking violations."

Pistoria also asked that the city look into taking control of the private parking lots now operated by APCOA, Inc. and Diamond Parking.

Bob Duty, director of public works, said the city used to operate the lots. He said he and City Manager Al Johnson have been discussing the possibility of returning the lots to the city's control, but that no decisions have been made.



A barrel, which is attached to bumpers of overtime cars, stands alongside an entrance to a downtown parking lot. (Tribune Photo)

Library to change parking operation

By GWINN DYRLAND

Tribune Staff Writer

The Great Falls Public Library board has decided to try to get "out of the parking business" by joining a city contract with APCOA Parking to run its patrons' parking lot.

In other business at its recent monthly meeting, the board voted to close the library Monday, Christmas Eve day, but keep it open until 5 p.m. on New Year's Eve. The New Year's Eve closing time is three hours earlier than the normal Monday closing time of 8 p.m. The library will be closed Christmas Day and New Year's Day, both Tuesdays.

Board members at the December board meeting voted to send notice to Diamond Parking, its current library lot manager, that the library

intends to join the city's contract. APCOA officials have said the library could be included at little or no cost to it, Library Director Richard Gercken told the board.

Gercken referred to the change as an attempt to get the library "out of the parking business."

"The board has felt all along we should be a part of the city" in its parking management, library board chairman Jean Koppang said during the meeting. She said she believes being part of the city contract will help secure good ice-removal and other winter maintenance of the lot, something that concerned the board last winter.

"It's a city library and it's city property," board member and Great Falls Mayor Bob Worthington said,

adding "when people park on the lot they should be treated the same way as any other (city) lot."

Worthington's motion to switch from Diamond to APCOA called for sending a letter to Diamond with 90-day notice of the library board's intent.

State Rep. Paul Pistoria, D-Great Falls, had urged the board to make the parking-management change at its November meeting. He has criticized Diamond for a policy of attaching barrels to some over-parked cars. Pistoria said at that meeting that Diamond staff had said they were easing up on the use of barrels.

No board members at the December meeting described Pistoria's complaint as the reason for their decision to switch lot managers.

IN OTHER BUSINESS, Gercken told the board of proposed administrative rule changes suggested by State Library staff in Helena.

One rule change would limit library federations to "existing political boundaries" — potentially barring federations from offering library contracted services to part of one county, Gercken said.

Gercken commented he "would like to see ... some flexible arrangement," that would allow potential cooperative arrangements among Montana library federations. Such arrangements could be used, for example, to bring bookmobile services to a community near the boundary of a federation that it doesn't belong to, he said.

2/6/85

HB 531

HOUSE BILL 531

"AN ACT CLARIFYING THE AUTHORITY OF THE DIVISION OF MOTOR VEHICLES TO ISSUE PROBATIONARY LICENSES AND PROVIDING A PENALTY FOR VIOLATING THE RESTRICTIONS."

House Bill 531 makes additions to two sections of motor vehicle law:

61-2-302 which is the Driver Improvement Program

and

61-11-101 which is the section where the judge recommends a restricted probationary license for an individual who has been convicted of a 1st offense DUI and attends an alcohol court school.

These are two of the three statutes under which the division presently issues a **restricted probationary license**. Section 61-5-206 currently provides the authority requested in House Bill 531 for some specific cases not covered by the amended sections.

The first addition on page 3, lines 15 through 24, **specifically provides** for an issuance of a restricted probationary license under the division's driver improvement program and makes a violation of the restrictions a misdemeanor. Approximately 850 drivers are eligible annually.

No penalty is specified. Therefore, section 46-18-212 prevails which provides for "a term of imprisonment not to exceed 6 months in the county jail or a fine not to exceed \$500 or both".

The second addition on page 5 provides that the holder of a probationary license as a result of 1st offense DUI is subject to the restrictions set forth and may not violate those restrictions. Approximately 3000 drivers are eligible annually.

The penalty for 61-11-101 is currently found in 61-5-307 and is the same penalty as stated above (not more than 6 months or \$500 or both).

This bill is to:

- (1) clarify the division's authority to issue a restricted probationary license,
- (2) to specify an offense for violating the restrictions, and
- (3) to clarify the penalty.

Submitted by Rep Kennerly

PROBATIONARY
MONTANA DRIVER LICENSE

NºH 05751

NAME

ST. & NO.

CITY &
STATE

SEX	EYES	WT.	HT.	HAIR	DATE OF BIRTH
					MO. DAY YEAR

OCCUPATION

RESTRICTIONS

THIS LICENSE IS VALID

FROM TO

Provided: That if the holder of this Probationary License is convicted of or forfeits an appearance bond for a moving hazardous traffic violation, or is involved as a driver and is at fault in a motor vehicle accident, further action against his or her driving privilege will result.

USUAL

SIGNATURE

The person named hereon is hereby authorized to operate a motor vehicle as an operator only, unless otherwise authorized and when validated by Postage Meter No. 692049 cancellation stamp on reverse side.

Department of Justice

DL14

Informal Opinion
JS/Shirley
Informal Opinion

17 December 1984

Mary Crumbaker-Smith
Bozeman City Attorney
411 East Main Street
P.O. Box 640
Bozeman MT 59715-0640

Dear Ms. Crumbaker-Smith:

You have requested my opinion concerning whether it is a misdemeanor for a person to drive in violation of the restrictions specified on a restricted probationary driver's license issued after the person has been convicted of a first offense violation of section 61-8-401, MCA. You also inquire whether, if such conduct does not constitute a criminal offense, any action may be taken in response to a violation of this kind.

An analysis of this issue requires an examination of the statutes authorizing the Motor Vehicle Division (the "Division") to issue probationary driver's licenses. Section 61-5-206(1), MCA, empowers the Division to suspend a person's driver's license upon determining that the licensee:

(a) has been involved as a driver in any accident resulting in the death or personal injury of another or serious property damage;

(b) has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(c) is an habitually reckless or negligent driver of a motor vehicle;

(d) is incompetent to drive a motor vehicle;

17 December 1984

(e) has permitted an unlawful or fraudulent use of such license as specified in 61-5-302;

(f) has committed an offense in another state which if committed in this state would be grounds for suspension or revocation; or

(g) has falsified his date of birth on his application for a driver's license.

The statute also provides:

However, the division may, in its discretion, and in lieu of such suspension of license or driving privilege, issue a probationary license to an operator or chauffeur, without preliminary hearing, upon a showing by its records or other sufficient evidence that the licensee's driving record is such as would authorize suspension as provided in subsection (1) hereof. Upon issuance of a probationary license the licensee shall be subject to the restrictions set forth thereon.... [Emphasis added.]

§ 61-5-206(2), MCA. Section 61-5-307(1), MCA, provides that it is a misdemeanor for any person to violate any of the provisions of, inter alia, "parts 1 through 3 of this chapter." Clearly, therefore, a person who drives in violation of any of the restrictions set forth on a probationary license issued pursuant to the authority granted by section 61-5-206, MCA, is guilty of a misdemeanor. However, section 61-5-206, MCA, does not authorize issuance of a probationary license to one who has been convicted of a first offense violation of section 61-8-401, MCA (driving under the influence). The statute reveals that the offense is not listed among those forms of conduct for which suspension is authorized. § 61-5-206(1), MCA. A different statute, section 61-5-208(2), MCA, requires the Division to suspend a person's driver's license for six months upon receiving a report that the person has been convicted of a first offense violation of section 61-8-401, MCA. Section 61-11-101(2), MCA, provides for issuance of a probationary license to such first-time offenders:

The court may also recommend that the division issue a restricted probationary license in lieu of the suspension required in [section] 61-5-208(2) on the condition that the

individual attend a driver improvement school or an alcohol treatment program if one is available. The division shall issue a restricted probationary license unless the person otherwise is not entitled to a Montana operator's or chauffeur's license.

Unlike section 61-5-206(2), MCA, section 61-11-101(2), MCA, does not state that the licensee shall be subject to the restrictions set forth on his probationary license. If the statute contained such a provision, I would have no trouble answering your question in the affirmative, since section 61-5-307(1), MCA, also states that it is a misdemeanor for any person to violate any of the "provisions" of section 61-11-101, MCA. However, the statute contains no such language, and I cannot insert what the Legislature has omitted. State ex rel. Palmer v. Hart, 39 St. Rptr. 2277, 2279, 655 P.2d 965, 967 (1982); § 1-2-101, MCA.

Obviously, one could draw the logical inference that, if the Division issues a restricted probationary license, the person shall be subject to the restrictions set forth on the license. I cannot, however, indulge in such an inference in determining that certain conduct constitutes a crime. In State v. Salina, 116 Mont. 478, 482, 154 P.2d 484, 486 (1944), the Montana Supreme Court stated:

[I]n a statute which carries a penalty, making its violation a crime, the provision as to what must be observed and done should be expressed with a degree of certainty such that it may be understood without relying on inferences.

See also State v. Kelman, 39 St. Rptr. 1545, 1548, 649 P.2d 1292, 1294 (1982).

Had the Legislature intended to criminally penalize a person for violating the restrictions specified on such probationary licenses, it could easily have put express language to that effect in section 61-11-101, MCA. For example, section 61-5-113, MCA, authorizes the Division to issue driver's licenses with various restrictions imposed with respect to "special mechanical control devices" required on a particular vehicle, or "such other restrictions applicable to the licensee as the division may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee." The most common example of a restriction authorized under

17 December 1984

the above statute is a requirement that the driver wear corrective lenses. Section 61-5-113(4), MCA, expressly provides: "It is a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him." No similar language exists in section 61-11-101(2), MCA.

I conclude, therefore, that it is not a misdemeanor for one to drive in violation of the restrictions imposed on a probationary driver's license issued to a first-time DUI offender pursuant to section 61-11-101(2), MCA. This does not, however, mean that such a person will suffer no consequences if caught. The Division has promulgated section 23.3.231, ARM, which provides in pertinent part:

....

(3) If a probationary licensee fails to continue to comply with the requirements for issuance of his or her probationary license or the restrictions thereon, the Division shall reinstate the full term of the originally authorized suspension or revocation.

Thus, a person will forfeit his probationary license if the Division determines that he has driven in violation of the restrictions imposed thereon. Since I have determined that such conduct does not constitute a criminal offense, something other than a report of a conviction must serve as notification to the Division. It would be legitimate for the Division to accept a sworn report from a peace officer attesting to conduct evidencing such a violation.

Very truly yours,

MIKE GREELY
Attorney General

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. 353; 357; 413; 531;

DATE February 6, 1985

SPONSOR 532; 609

	NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
HB 357	DALE SMILIE	Helena		✓
	AL BOKKE AB 357	Highway Traffic Safety Institute	✓	
	Col. R.W. Landon	Highway Patrol	X	
HB 357	DALE GAMMER	BUTTE		✓
357	Chris Spolar	Butte		X
40 357	Keith Ingram	Butte		X
357	Jeff Warr	Helena		X
57	Dennis Miller	Montana City	✓	X
	Richard Clark	Helena		X
	Sherry L. Clark	Helena		X
	DEXTER ROBERTS	HELENA		X
	Edwin T. Simmons	Helena		X
413	John KATAVOS	HELENA		X
	Norm Douglas	Missoula		X
	Kevin Parker	Missoula		X
	Bob Bunt MALCO	Helena	HB 357	
	Richard E. Field	Helena		X
	Sherry Morrow	HELENA		X
	SHERIDAN R. CRIPER	HELENA		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. 357DATE 2/6/85

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
LEE BRIDGES	HELENA		X <small>LET THOSE WHO RIDE DECIDE!</small>
MIKE INMAN	BOZEMAN		X
CRAIG MENZEL	WEST YELLOWSTONE		X
413 Dow M. H. Intyre	DN R. Helena		X
David B. Slaughter	Bozeman Mont.		X
Lore Zander	missoula		X
Eric Cans	Missoula		X
413 Doug Woodahl	Missoula		X
Rod Sundsted	HELENA		X
Carol Snyder	Helena		X
357 Axel Miller	Boulder		X
Richard L. Alderson	MISSOULA		X
James S. Bue	MISSOULA		X
Jerry Dalzell			
Anthony Woodahl	Missoula		X
James Bue	Helena		X
Steve Osborne	HELENA		X
David J. Stewart	bozeman		X
Edward P. ...	Three Forks		X

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. 357DATE 2-6

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
ANNA CRAVER	1616 W. DURSTON / BOZEMAN		X
Brad Baker	805 Staplehurst / Missoula		X
Jim Thompson	MISSOULA		X
Robert Elrod	Wolf Creek		X
Mike Benson	Helena		X
Shawn Lewis	Helena		X
Michael D. Blumel	Anaconda		X
Roy Nelson	Helena		X
Bill Wedgwood	Helena		X
James T. Landis	"	✓	
John R. Harlan MD	"	✓	
Dale Petersen	Anaconda		X
John F. Schudel	Anaconda		X
John D. Bellon	Anaconda		X
W D Jacobson MD		X	
Leander K. Allen, RN.		X	
William M. Crawford	Missoula	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

COMMITTEE

DATE 2-6

SPONSOR Rep. Mike Kadas

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

CS-33

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. 353DATE 2/6/85

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<i>Don Nelson</i>	<i>Bohemia</i>	✓	
<i>Mare Racicot</i>	<i>Helena</i>	✓	
<i>RICHARD L. ALDERSON</i>	<i>MISSOULA</i>		✓
<i>Robert Cullay</i>	<i>1624 Hollins Helena</i>		x
<i>Mike Benson</i>	<i>Helena</i>		x

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.