

MINUTES FOR THE MEETING  
JUDICIARY COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

February 14, 1985

An executive session of the Judiciary Committee was called to order by Chairman Tom Hannah on Thursday, February 14, 1985 at 7:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present.

ACTION ON HOUSE BILL NO. 357: Rep. Cobb moved that HB 357 DO PASS. The motion was seconded by Rep. O'Hara.

Rep. Gould moved a substitute motion to table the bill. He feels the committee should draft a bill which would disallow any money from taxes to go to those people who severely injured themselves while they were driving a motorcycle without the use of a helmet. Following further discussion, Rep. Gould withdrew his motion. He does, however, feel there should be some provision placed in the bill which excludes those people who work in motorcycle shops or those who test drive motorcycles from having to wear helmets while test driving. Rep. Gould made a motion to this effect and requested Brenda Desmond, the committee researcher, to draft the appropriate language. Rep. O'Hara seconded the motion. The motion to amend carried with Reps. Montayne, Grady, Eudaily, Addy and Krueger dissenting.

Rep. Grady pointed out that prior testimony revealed that the helmets sold on the market today do not provide the adequate protection anyhow. Because of that reason, Rep. Grady moved that HB 357 DO NOT PASS AS AMENDED. The motion was seconded by Rep. Rapp-Svrcek.

Rep. O'Hara said that although he doesn't like to see the government trying to run people's lives, he feels that motorcyclists should be required to wear helmets for the purposes of protection.

The question was called, and the DO NOT PASS AS AMENDED motion carried 10-7. (See roll call vote.)

ACTION ON HOUSE BILL NO. 619: Rep. Montayne moved that HB 619 DO PASS. The motion was seconded by Rep. Cobb. Rep. Mercer feels that passage of this bill will present a conflict between the codes and what the Montana Supreme Court rules says.

Rep. Krueger agreed and made a substitute motion for a DO NOT PASS. The motion was seconded by Rep. O'Hara. The question was called, and the DO NOT PASS motion carried with Rep. Hannah dissenting.

ACTION ON HOUSE BILL NO. 656: Rep. Hammond moved that HB 656 DO PASS. The motion was seconded by Rep. Krueger.

Rep. Hammond further moved on page 1, line 22 following "the" strike "division of"; furthermore, following "compensation" insert the word "judge". The motion was seconded by Rep. Darko. The question was called and the motion carried with Rep. Montayne dissenting.

Rep. Brown moved that HB 656 DO PASS AS AMENDED. The motion was seconded by Rep. Krueger and the bill was further discussed.

Rep. Hannah wanted to know what kind of chilling effect this legislation would have on insurance companies. Rep. Addy stated that he doesn't feel there will be any effect on claims without liability. He said this bill will not affect those cases with a disputed amount.

The question was called, and the DO PASS motion carried unanimously.

ACTION ON HOUSE BILL NO. 522: Rep. O'Hara moved that HB 522 DO PASS. The motion was seconded by Rep. Hammond.

Rep. Krueger said that this bill deals with changes and further clarifies the time period in addition to describing how notice is to be given in the event certain property is subject to forfeiture. Rep. Krueger stated that the problem he sees with the bill is the fact that it is possible that the property can be sold before a court procedure is held. He continued by saying this legislation is current law and just amends the present law in regards with the notice provisions.

Rep. Hannah moved to amend on page 4, line 9 by striking "seizure" and inserting the word "conviction". He, too, feels that someone's property should be sold until that person is found guilty. Rep. Brown seconded the motion.

Rep. Addy spoke against the motion to amend by saying he doesn't think this safeguard is needed. He pointed out that a defendant can file an Answer. Rep. Gould also stated his opposition to the motion by saying it just muddies the water.

The question was called on the motion to amend, and it failed on a voice vote.

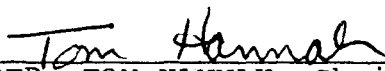
Rep. Hammond moved that HB 522 DO PASS. The motion was seconded by Rep. Mercer, and the bill was further discussed.

Rep. Mercer said he had a question with regards to people who would try to avoid service. He is afraid that people will take off so that they cannot be personally served.

Rep. Addy moved on page 5, line 15 by striking "No" and inserting "Only one 20-day"; furthermore, on page 5, line 17 following "days" insert "or within the 20-day extension". The motion was seconded by Rep. Hammond and carried unanimously.

Rep. Hammond moved that HB 522 DO PASS AS AMENDED. The motion was seconded by Rep. Brown and carried with Rep. Eudaily dissenting.

The executive session adjourned at 8:00 a.m. so that the regular meeting scheduled for 8:00 a.m. could begin.

  
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REP. TOM HANNAH, Chairman