

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

February 16, 1985

The thirty-first meeting of the Senate Judiciary Committee was called to order at 11:45 a.m. on February 16, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present, with the exception of Senator Pinsoneault, who was excused.

ACTION ON SB 328: Chairman Mazurek distributed copies of the proposed amendments to SB 328 prepared by Chad Smith (see Exhibit 1). He stated these amendments limit the scope of protection from liability in those instances where someone is injured from the result of taking the test. Senator Towe stated these amendments are what the committee had requested, and he is satisfied with them. Senator Mazurek stated we have removed "under the supervision and direction of a physician or licensed hospital." Senator Towe stated he had no concerns about that. Senator Blaylock asked about liability when the old drunk comes in. Senator Mazurek stated they are still liable to him. Senator Towe moved the proposed amendments to SB 328 be adopted. The motion carried unanimously. Senator Crippen moved SB 328 be recommended DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON SB 55: Senator Towe stated he had reviewed some concerns from Vic Cook. Senator Towe stated he has gone through briefs and court cases on this matter. He believes Mr. Cook's concern is not warranted, but he proposes the amendments attached as Exhibit 2 to cover this situation. Senator Towe stated he has not been able to reach Vic Cook to take to him, but he has talked to Densil Young, Fallon County Attorney. Senator Towe stated he thinks it is a lot of language that is unnecessary, but he doesn't think it will hurt the bill. Senator Towe moved the proposed amendments to SB 55 be adopted. The motion carried unanimously. Senator Towe moved SB 55 be recommended DO PASS AS AMENDED. Senator Shaw stated the five-year limitation in the bill just gives a sharp lawyer that much more time to look for errors. Senator Shaw moved that SB 55 be amended as follows:

Page 3, line 25.

Following: "within"

Strike: "5"

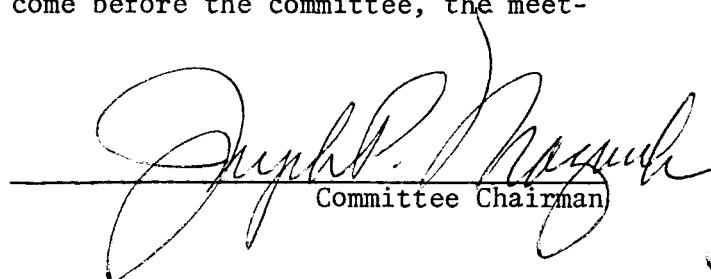
Insert: "3"

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The motion carried unanimously. Chairman Mazurek then reverted to Senator Towe's motion that SB 55 be recommended DO PASS AS AMENDED. The motion carried unanimously.

FURTHER CONSIDERATION OF SB 217: Proposed amendments to SB 217 were distributed to the committee (see Exhibits 3 and 4). Jim Jensen, from the Montana Magistrates Association, stated the impact of this bill on the program funds is not addressed in the fiscal note and should be considered. Chairman Mazurek requested that Mr. Jensen get together with Senator Towe to address this problem before the committee takes action on this bill.

There being no further business to come before the committee, the meeting was adjourned at 12:02 p.m.



Ralph P. Mazurek
Committee Chairman

ROLL CALL

SENATE JUDICIARY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 02/16/85

SENATE BILL NO. 328

Amend Senate Bill No. 28 as follows:

Delete on page 2, lines 6 through 13 and substitute in lieu thereof:

"(4) No physician, licensed hospital, or registered nurse
or other qualified person under-the-supervision-and-direction
of-a-physician-or-registered-nurse shall incur any civil or
criminal liability as a result of the proper administering
of a blood test when requested in writing by a peace officer
to administer such a test. If a blood test is administered
at the written request of a peace officer without the consent
of a person suspected of homicide, no physician, licensed
hospital, registered nurse or other qualified person
administering the test, or any hospital employee assisting
in administering the test, shall incur any civil or
criminal liability in connection with the test as a result
of any resistance offered by the suspected person."

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 02/16/85
BILL NO. SB 328

of ~~minerals~~ ~~minerals~~ All affirmative defenses of law, including, but not limited to, estoppel, ~~riches~~, adverse possession plus any applicable statute of limitations shall apply in any suit brought to challenge the title to a royalty interest in land ~~claimed~~ by a county by tax deed.

LC 0222/01

until such amount and interest and penalty shall be paid.

(4) An action against a county to recover a royalty on ~~minerals~~ interest in land acquired by the county by tax deed must be brought within the period prescribed in 27-2-210."

Section 2. Section 27-2-210, MCA, is amended to read:
"27-2-210. Actions arising from the seizure or sale of property for taxes. (1) Within 1 year is the period prescribed for the commencement of an action against an officer or officer de facto:
(a) to recover any goods, wares, merchandise, or other property seized by any such officer in his official capacity as tax collector;
(b) to recover the price or value of any goods, wares, merchandise, or other personal property so seized;
(c) for damages for the seizure, detention, or sale of or injury to any goods, wares, merchandise, or other personal property seized; or
(d) for damages done to any person or property in making any such seizure.
(2) The period prescribed for the commencement of an action to recover stock sold for a delinquent assessment is within 6 months.
(3) An action against a county to recover a royalty on ~~minerals~~ interest in land acquired by the county by tax deed must be brought within 5 years after the commencement of

commercial production of oil, gas, or other minerals from the land."

NEW SECTION. Section 3. Action to recover ~~minerals~~ a royalty interest in land sold for taxes. An action against a county to recover a royalty ~~interest~~ interest in land acquired by the county by tax deed must be brought within the period prescribed in 27-2-210.

NEW SECTION. Section 4. Applicability date. This act applies to actions filed after September 30, 1985.

-End-

Section 4. In this act
New Section. Nothing contained herein shall change the nature of a royalty interest ~~as far as~~ prior to actual production. The purpose and intent of the legislation is to place a limitation on actions seeking ~~damages~~ reserved by the county once production of royalty interests reserved by the county has commenced without in any way affecting the validity of any claims any county may have prior to the commencement of production.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 2
DATE 021685
BILL NO. SB 55

PROPOSED AMENDMENTS TO SB 55:

1. Title, line 6.

Following: "ROYALTY"

Strike: "OR MINERAL"

2. Page 1, line 13.

Following: "for"

Strike: "mineral"

Insert: "royalty"

3. Page 3, line 2.

Following: "royalty"

Strike: remainder of line 2 through "mineral" on line 3

4. Page 3, line 23.

Following: "royalty"

Strike: remainder of line 23 through "mineral" on line 24

5. Page 4, line 3.

Following: "recover"

Strike: "mineral"

Insert: "royalty"

6. Page 4, line 5.

Following: "royalty"

Strike: "or mineral"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 2
DATE 02/16/85
BILL NO. SB 55

PROPOSED AMENDMENTS TO SB 217:

1. Title, line 4.

Following: "ACT"
Strike: "REQUIRING"
Insert: "PROVIDING"

2. Title, line 5.

Following: "COURTS"
Insert: "MAY"

3. Title, line 6.

Following: "OF"
Strike: "10,000"
Insert: "20,000"

4. Page 1, line 22.

Following: "of"
Strike: "10,000"
Insert: "20,000"

5. Page 1. line 23.

Following: "may"
Strike: "must"
Insert: "may"

6. Page 2, line 7.

Following: "be"
Strike: remainder of line 7 through "judge" on line 8
Insert: "shall be set by city ordinance"

7. Page 7, lines 5 and 6.

Strike: subsection (a) in its entirety
Renumber: subsequent subsections

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 10/21/685
BILL NO. SB 217

SENATOR TOWE'S PROPOSED AMENDMENT TO SB 217:

1. Page 4, lines 11 and 12.

Following: "hearings" on line 11

Strike: remainder of line 11 through "cases" on line 12

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 4
DATE 021685
BILL NO. SB 217

STANDING COMMITTEE REPORT

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February 16

1985

MR. PRESIDENT

We, your committee on.....

JUDICIARY

having had under consideration.....

SENATE BILL

No. 55

First reading copy (white)
color

LIMITING TIME TO CHALLENGE VALIDITY OF ROYALTY OR MINERAL INTEREST

Respectfully report as follows: That.....

SENATE BILL

No. 55

be amended as follows:

1. Title, line 6.

Following: "ROYALTY"

Strike: "OR MINERAL"

2. Page 1, following line 10.

Insert: "NEW SECTION. Section 1. Purpose. Nothing contained in [this act] shall change the nature of a royalty interest prior to actual production. The purpose of [this act] is to place a limitation on actions seeking royalty interests reserved by the county, once production has commenced, without in any way affecting the validity of any claims a county may have prior to the commencement of production."

Remember: subsequent sections

3. Page 1, line 13.

Following: "for"

Strike: "mineral"

Insert: "royalty"

4. Page 3, line 2.

Following: line 1

Insert: "(4) All affirmative defenses at law or equity, including but not limited to estoppel, laches, adverse possession, plus any applicable statute of limitations, shall apply in any suit brought to challenge the title to a royalty interest in land claimed to have been acquired by a county by tax deed."

Remember: subsequent subsection

XXXXXX
DO PASS

XXXXXX
DO NOT PASS

CONTINUED

Senator Joe Mazurek

Chairman.

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SENATE BILL NO. 55

5. Page 3, lines 2 and 3.

Following: "royalty"

Strike: remainder of line 2 through "mineral" on line 3

6. Page 3, lines 23 and 24.

Following: "royalty"

Strike: remainder of line 23 through "mineral" on line 24

7. Page 3, line 25.

Following: "within"

Strike: "3"

Insert: "3"

8. Page 4, line 3.

Following: "recover"

Strike: "mineral"

Insert: "royalty"

9. Page 4, line 5.

Following: "royalty"

Strike: "or mineral"

AND AS AMENDED

DO PASS

..... Senator Joe Mazurek, Chairman

STANDING COMMITTEE REPORT

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MR. PRESIDENT

JUDICIARY

We, your committee on
having had under consideration.....

SENATE BILL

528

No.

first reading copy (white)
color

AMEND LAW GRANTING IMMUNITY TO PERSON GIVING BLOOD ALCOHOL TEST.

Respectfully report as follows: That.....

SENATE BILL

328

No.

be amended as follows:

1. Page 2, line 7.

Following: "hospital"

Strike: "hospital employee,"

Following: "qualified"

Insert: "qualified"

2. Page 2, line 9.

Following: "nurse"

Strike: remainder of line 9 in its entirety

3. Page 2, line 11.

Following: "proper"

Insert: "proper"

4. Page 2, lines 12 and 13.

Following: "administer"

Strike: remainder of line 12 through "administering" on line 13

X55543S

KEYWORD/PAGE

CONTINUED

Chairman.

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SENATE BILL NO. 323

5. Page 2, line 13.

Following: "test"

Strike: remainder of line 13 through "injury"

Insert: "If a blood test is administered at the written request of a peace officer without the consent of a person suspected of homicide, no physician, licensed hospital, registered nurse, or other qualified person administering the test, or any hospital employees assisting in administering the test, shall incur any civil or criminal liability in connection with the test as a result of any resistance offered by the suspected person."

AND AS AMENDED

DO PASS

..... Senator Joe Mazurek, Chairman