

MONTANA STATE SENATE  
JUDICIARY COMMITTEE  
MINUTES OF THE MEETING

February 25, 1985

The fortieth meeting of the Senate Judiciary Committee was called to order at 12:30 p.m. on February 25, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

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

CONSIDERATION OF SB 459: Senator Dave Fuller, sponsor of the bill, stated the bill came from two sources--two calls from constituents and an The Independent Record column entitled "There should be a law." There were 63 suggestions in that column for a law and of those, Senator Fuller thought this concept had merit. Senator Fuller stated he has attempted to come up with something that fits Montana without looking at a no-fault insurance bill. What they attempted to do was devise something somewhere in the middle that addresses the problems with drivers who do not have insurance. He proposed amendments to the bill (Exhibit 1) and submitted a section-by-section analysis of it (Exhibit 2). The bill is intended to provide relief for victims of losses caused by uninsured motorists. This makes liability insurance and uninsured motorist coverage mandatory.

PROPOSERS: None.

OPPOSERS: Glen Drake, representing the American Insurance Association, stated this bill does away with the provision that now allows rejection of uninsured motorist coverage. The state of Montana which insures all of its vehicles rejects uninsured motorist insurance coverage because of its cost. Secondly, this applies to destruction of property caused by a motorist. One of the reasons for that is that you are in effect mandating that everyone have at least a partial collision coverage in his policy. He enumerated several concerns regarding the bill: (1) Page 2, lines 4-7. Property damage is often covered by a homeowner's policy. (2) He foresees a technical problem with page 2, lines 18-19. Under Section 61-6-103, MCA, insurance is described as an owner's or operator's policy certified as proof of financial responsibility. Here, you are requiring all policies to be certified. (3) Page 3, subsection (2), has not been amended; that is the existing law. The problem with that is if what we are doing is mandating uninsured motorist coverage under an insurance policy, we are not doing the same for self insurers. We are giving a big bonus to the self insurers, which are the big companies

like The Montana Power Company and Mountain Bell. (4) Page 3, section 3. The reason for certification rather than proof of insurance is because of the long lines in the county treasurer's office. (5) He believes this mandatory insurance bill has some imagination behind it, although factually and historically, mandatory insurance bills have not worked. (6) Page 5, lines 11-15. We are putting a burden on the insurance companies to give notice to the division. The division has to make efforts to cause the surrender of registrations of persons that are uninsured. This will cost the state of Montana a great deal of money, approximately \$200,000. (7) Subsection (8) on page 6 says the division can take 10% of the moneys put into the fund to handle all of the administrative costs. Mr. Drake thinks the 10% is very inadequate. (8) We are probably exposing the state of Montana to liability for those amounts that would have been paid had there been uninsured motorist coverage. (10) The bill expires before it becomes effective. The authors of this bill sincerely are trying to address a serious problem. He doesn't belittle the problem. Under normal circumstances, one would expect the insurance industry to openly approve of this, but historically, these things don't work, and this bill is fraught with problems. At the very least, he believes the committee needs to study the issue and give the bill a do not pass recommendation at this time.

QUESTIONS FROM THE COMMITTEE: Senator Towe asked Senator Fuller if he were prepared to meet the concerns raised by Mr. Drake or did he feel we needed more study on this matter. Senator Fuller stated he disagreed totally with 99% of the issues raised by Mr. Drake. He believes we have two choices regarding state policy--paying the cost of uninsured motorist coverage at about \$20 per person per year or eliminating vehicle fleets in state and local governments. He suggested Mr. Drake draft an amendment regarding self-insurers because that was not their intention. He believes the major concern of the insurance companies is we are requiring them to report the lapses. It is an inconvenience, but insurance companies are not losing money; he suspects the consumer will be paying for that. Regarding the division and its 10%, Senator Fuller acknowledged we are not certain and there is no way to predict how much money will come in there. He is not hung up on 10%, but he stated it is tough to make a projection when you don't know exactly what's coming in. The insurance companies should be for it. He believes this is good social policy. They are not going to lose money. They are going to charge for it. Senator Towe asked Senator Fuller to whom was he referring when he said "we." Senator Fuller responded to his researcher, Sandy Oitzinger, and himself. Senator Towe stated this is something that we started studying with an interim study in 1972. We have been trying to do something to address this problem, and the last study was subcommittee No. 3. There was no way that subcommittee could have addressed the time they should have to this question because of the raft of things they were assigned. That subcommittee was told that the

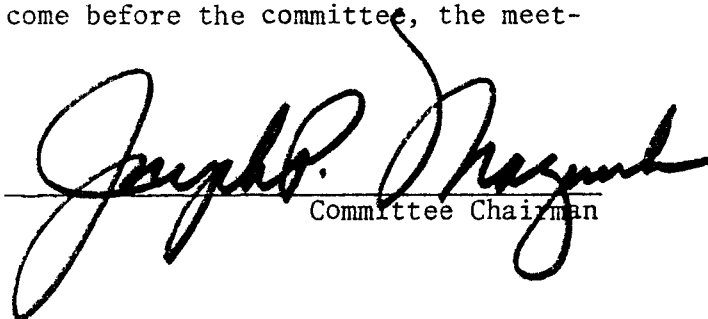
provision on page 5, line 19, through the top of page 6 is probably terribly expensive. It would require an enormous increase in personnel that would be prohibitive in cost. It is not that the insurance companies would be unwilling to send the notices, but picking up the registrations would be expensive. Senator Fuller responded he doesn't disagree that is a factor or that you can implement that inexpensively, but he pointed out the Division of Labor Standards and the Human Rights Division sit with 200 cases backlogged because the legislature does not supply the kind of money they need to do the job. Senator Crippen stated we require mandatory insurance coverage by law. Senator Fuller responded liability insurance. Senator Crippen asked for what purpose. Senator Fuller responded for the public good. There is a protection for those that are damaged by lack of that. Senator Crippen asked for what purpose we have seen fit to expand this for uninsured motorist coverage. Senator Fuller stated the situation with somebody in the back seat of the car that is driving with someone that does not have uninsured motorist coverage, if they are hit they are protected. Senator Crippen stated in order to protect that person rather than go after the person who doesn't have insurance and caused the accident, what we are doing in effect is penalizing the person that may be innocent. He questioned whether we were going after the wrong person. Senator Mazurek stated we talked about the long lines at the courthouse. As he recalls, we did just change that back from certification to requiring proof of registration. He asked if Senator Fuller looked at that. Senator Fuller responded he didn't recall; they just thought in their judgment this would be a better way of tightening that up. Senator Blaylock asked about the assertion that homeowner's insurance would cover damage to the person's property. Senator Fuller responded he is not familiar with what was available under homeowner's coverage, but believed perhaps the high deductible on homeowner's insurance is why these people do not care to use it. Mr. Drake stated he would like to clear up a couple points he made. He had indicated it would cost the state approximately \$200,000 for coverage. He understands it would probably only be \$25,000. Also, the giving of notice of cancellation is in and of itself an innocuous thing. However, there is another problem that you need to understand and that is the problem of liability based on violation of statute referred to in the Goddard case. If a notice is not given to the department or someone is not notified, he can see extreme potential liability. Senator Mazurek asked about putting in an immunity provision with respect to that. Mr. Drake responded that has some possibility.

CLOSING STATEMENT: Senator Fuller stated he feels this bill is a good one, and he is certainly open for improvements on it.

Hearing on SB 459 was closed.

TABLING OF SB 459: Proposed amendments to SB 459 were distributed to the committee (Exhibit 3). Mr. Petesch explained that the only thing these amendments did was revise the applicability date problem mentioned by Mr. Drake. Senator Fuller stated the purpose of the applicability and termination dates was to give sufficient time to see if the money were generated. If not, the next legislative session could deal with that question. He did not want people to start submitting claims until we could see if the money were there. Chairman Mazurek asked if there were interest in the committee in working on the bill. Senator Daniels stated that if interim subcommittee No. 3 had been working on the issue without success, he doubted there would be time before transmittal for the committee to adequately address the concerns raised with regard to the bill. Senator Shaw stated that in view of the fact the bill would have to be extensively amended either here or in the House, he believes it might be better to work on it and bring it back next session. Senator Crippen stated he concurs in this viewpoint and moved SB 459 be TABLED. The motion carried with Senators Blaylock, Mazurek, and Yellowtail voting in opposition.

There being no further business to come before the committee, the meeting was adjourned at 1:10 p.m.

  
Committee Chairman



DATE

February 25, 1960

COMMITTEE ON

Judiciary

VISITORS' REGISTER

JB 459

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Arthur Brown	ST. Andrew	459		
Ronald Lipp	alliance of American Insurers	" "		X
ROGER McCLAREN	INDEPENDENT INSURANCE AGENTS ASSOC. of AT	459		

Amendment to LC 1293:

1. Page 7, line 14.

Following: "(2)"

Strike: "fines"

Insert: "any amount in excess of \$250"

Following: "61-6-304"

Insert: "as a fine for a single violation"

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 1

DATE 022585

BILL NO. SB 459

SECTION-BY-SECTION ANALYSIS

SB 459

Section 1.

Page 1, lines 17 and 18: Section subtitle is changed to reflect deletion of references to "rejection by insured" of uninsured motorist coverage.

Page 2, line 1: Addition of requirement that uninsured motorist policy contain coverage (\$5,000) for destruction of property, as set forth in 61-6-103.

Page 2, lines 8 thru 13. Deletes subsec. (2) which allows insured to reject uninsured motorist coverage.

Section 2.

Page 2, lines 18 and 19: Includes uninsured motorist coverage as one of the types of insurance required to be provided by owners of motor vehicles registered and operated in Montana by such owner or with his or her permission.

Page 2, lines 22 and 23: Includes amounts of uninsured motorist coverage which are specified in policy requirements under 33-23-201 as requirements for motor vehicle insurance (i.e., \$25,000 for bodily injury or death of one person, \$50,000 for bodily injury or death to two or more persons, and \$5,000 for property destruction.

Section 3.

Page 3, lines 19 and 20: Adds reference to the requirement for notification by insurance companies to the Division of Motor Vehicles within the Department of Justice of lapses of coverage, and reference to penalties imposed for lapses, to the subtitle.

Page 3, lines 22 and 23: Changes requirement that an applicant for motor vehicle registration certify that he or she possesses coverage to a requirement that he or she furnish evidence from providers of required coverage (insurance companies or surety companies providing bond) that the coverage is in force.

Page 5, lines 11 thru 25; Page 6; Page 7, lines 1 thru 8:

--Requires notification by insurers or providers of bond that coverage has terminated or lapsed. (Effective after July 1, 1986;

--Provides for notification to vehicle owner by Division of suspension of registration for lapse or termination of coverage.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 2

DATE 022585

BILL NO. SB 459



- Requires owner to surrender evidences of registration within 48 hours of suspension of registration due to termination or lapse of coverage;
- Requires Division to make an attempt to recover evidences of registration when not surrendered, and allows suspension of owner's driver's license;
- Provides penalties for termination or lapse of coverage  
 Division may assess as follows:
  - \*Without required coverage for 1 to 30 days - \$100.00
  - \*31st day and forward - \$1 per day
  - \*Ceiling set at maximum fine allowable (\$450) for operating vehicle without required coverage;
- Directs payment of funds into uninsured motor vehicle insurance account with allowances to be paid to Division for administrative costs;
- Prohibits county from reinstating registration of owner penalized for termination or lapse of coverage until penalty is paid and proof of coverage is furnished;
- Prohibits any person who has knowledge that a motor vehicle is not covered from driving a vehicle or if he or she is the owner, permitting another to drive it.

Section 4.

Page 7, lines 9 thru 20: Establishes in state special revenue fund an uninsured motor vehicle insurance account to consist of:

- funds from penalties for lapses and terminations;
- funds from certain fines collected for driving uninsured;
- interest earned on funds in account;
- proceeds from any insurance, pooled or otherwise, obtained by the fund;
- any securities acquired by the fund;
- earnings on any securities acquired by the fund.

Section 5.

Page 7, lines 21 thru 25, Page 8, lines 1 thru 15;

--Allows uninsured motor vehicle insurance account to obtain insurance to pay lawful claims arising out of accidents involving uninsured motorist(s) in situations where losses are not covered by private coverage and are over \$100.00;

--Allows such claims to be paid directly from account if insurance is not available at reasonable cost;

--Limits claims against account to amounts of liability insurance required by law (\$25,000 for bodily injury or death of one person, \$50,000 for two or more, \$5,000 for property destruction).

Section 6.

Page 9, line 1: Raises fine for driving uninsured from up to \$250 to up to \$450.

Section 7.

Page 9, lines 2 thru 6: Provides rulemaking authority to Division

Section 8.

Page 9, lines 7 thru 10: Codification instructions.

Section 9.

Page 9, lines 11 thru end: Defers any payment to be made from uninsured motorist insurance account to claims arising after June 30, 1987. Sunsets uninsured motorist insurance account on April 30, 1987 unless reenacted.

PROPOSED AMENDMENTS TO SB 459:

1. Page 9, line 12.

Following: "is"

Strike: "effective on and"

2. Page 9, line 13.

Following: "after"

Strike: "June 30, 1987"

Insert: "October 1, 1985"

SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 3  
DATE 022585  
BILL NO. SB 459