

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

April 15, 1985

The sixty-fourth meeting of the Senate Judiciary Committee was called to order at 10:35 a.m. on April 15, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

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

ACTION ON HB 295: Proposed amendments were distributed to the committee: Amendments from Senator Mazurek which would conform this bill to his SB 110 dealing with arbitration (Exhibit 1); an amendment offered at the hearing by Senator Bill Farrell (Exhibit 2); and amendments offered at the hearing by the Motor Vehicle Manufacturers Association (Exhibit 3). Senator Shaw moved that HB 295 be tabled. He felt the bill was unenforceable. He also felt consumers should stand on their own hind legs and not expect anyone to protect them. Mr. Petesch explained that the amendments proposed by Senator Mazurek affected Sections 10 and 14, in which there are references to Title 27, chapter 5. Senator Mazurek's bill repeals those sections. The proposed amendments just say that if this bill and SB 110 both pass, the bracketed materials will be replaced. Senator Towe moved as a substitute motion that the amendments on Exhibit 1 be adopted. The motion carried unanimously. Senator Towe then spoke against Senator Shaw's motion stating even the automobile industry admitted there are occasionally lemons and there is nothing more frustrating than taking a car back to the garage time and time again. Senator Towe felt this bill was a reasonable approach to the problem. The motion to table failed with Senators Galt and Shaw voting in favor. Senator Towe moved that HB 295 be amended as follows:

Page 7, line 18.

Following: "procedure"

Insert: "must afford the consumer or his representative an opportunity to appear and present evidence in Montana at a location reasonably convenient to the consumer, and further"

He commented the amendment was offered following the comments made by Ms. Douglas from Denver that in fact they don't always afford the individual an opportunity to appear in those procedures. If the procedure is authorized under federal regulation, they should allow them an

opportunity to appear. The motion carried unanimously. Senator Towe moved adoption of the following amendment:

Page 9, line 24.

Following: "."

Insert: "All arbitration shall take place in Montana at a place reasonably convenient to the consumer."

He offered this amendment in the event Senator Mazurek's SB 110 does not pass, in which case we would need it. If the bill passes, it is unnecessary. The motion carried unanimously. Chairman Mazurek stated Exhibit 2 dealt with big trucks. Senator Towe replied it wouldn't really have much effect because 18,000 miles can be driven in the first two months. Chairman Mazurek stated the next amendment deals with loaner cars. Senator Pinsoneault asked if the vehicle has to be a lemon before the question comes up. He didn't agree that it would be necessary to have a fleet of loaners. Senator Blaylock agrees that is asking too much and should be left out. Senator Pinsoneault did not feel the two-year age restriction on loaner vehicles would be necessary as long as the vehicle loaner were reliable. Mr. Petesch explained the two years is to conform to the warranty period. Senator Mazurek stated you don't get a loaner unless the manufacturer brings it in so they can fix it. He questioned how that would affect a small dealer in Plentywood. Senator Towe replied the manufacturer will make arrangements with the dealer to have a car. He believes a prominent citizen will be given a loaner, but the poor person will not get that treatment. He felt that inequity should be corrected and felt this would be the vehicle to do so. Senator Mazurek stated the trouble for most dealers is if they are going to do it on behalf of the manufacturer, their insurance won't permit it. Senator Towe suggested they would be able to get that type of insurance coverage if they were to shop around. He thinks it is reasonable and doesn't think the consumer will get stuck with that. Senator Blaylock stated dealers have problems with manufacturers. It is hard to make a manufacturer do something. Senator Pinsoneault stated if the repairs require that the vehicle be kept longer than say three or five days, maybe they should be obligated to provide a loaner car. He agreed with Senator Blaylock that the little dealer will get stuck. Senator Galt suggested just accepting these amendments. Senator Mazurek stated the nice thing about having this provision is if the dealer gets in a spat with the manufacturer, they can go to the Justice Department and Mr. Majerus will hold a hearing. Senator Towe moved the bill be amended as follows:

1. Page 8, line 9.

Following: "than"

Strike: "2"

Insert: "4"

2. Page 8, line 10.

Following: "repair"

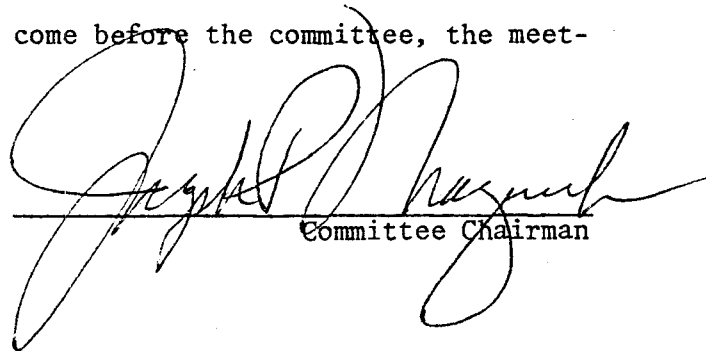
Insert: "if the vehicle is retained for more than 3 days"

Senator Pinsoneault felt this would be incentive to get the car fixed. The motion carried unanimously. Chairman Mazurek stated the next amendment dealt with the warranty period. Senator Brown asked how near that was to complying with the typical existing warranty provisions. Senator Mazurek replied nearly all have that much of a warranty, although others, such as Chrysler, have a 50,000 mile, five-year warranty. Senator Galt felt the committee should let the manufacturers decide the warranty period themselves. He believes it encourages competition. Senator Towe stated everything in this bill ties into this warranty section. If you take that out, it causes problems with the rest of the bill. Senator Galt stated you can't take care of everyone. Senator Yellowtail commented he didn't see a need for this law to be tied directly to a manufacturer's warranty. This law ought to have its own separate effectiveness period. He suggested changing the word "warranty" to something else, such as "effectiveness of this act." Senator Mazurek responded you are by statute creating a two-year warranty. Senator Towe replied the warranty the manufacturer gives may be much broader than what is provided in this act. Senator Towe moved HB 295 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously. Senator Brown stated he would feel more comfortable in voting for the bill with the warranty provision taken out. He feels it is unwarranted infringement on the dealers' ability to compete with each other. Senator Brown moved that the committee reconsider its action on the bill for purposes of taking the warranty section out of the bill. Senator Towe stated the comment he made earlier was this warranty period for purposes of this bill has no connection with the warranty the manufacturer gives when the automobile is sold. In the bill, we are talking about the right to bring your car in if in fact there is a problem with it. You can bring it back in again and again and then you know you have a problem with it. The motion to reconsider carried (see roll call vote attached as Exhibit 4). Senator Brown moved that on page 3, line 10, we substitute the stricken language for the inserted language so we are talking about one year instead of two years and 18,000 miles. He preferred going back to the stricken language. Senator Yellowtail asked what was the implication of what we are doing here in terms of the whole year. He asked if that meant after 12,000 miles or one year, he no longer has a claim. Senator Brown pointed out the manufacturer may want to sweeten up its warranty. Mr. Petesch pointed out another statute says if you take an automobile out of service 30 days or attempt to repair a defect four or more times, then you have a lemon. One of the times has to be within the warranty period, and you have to give notice. Senator Mazurek stated if you have one complaint during the first year

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and that continues to occur, then you have a lemon problem. Senator Yellowtail asked what if he were Nannabelle Nickleberry and only drove his car to church and is a low-mileage driver, if we are limiting this to one year, Nannabelle Nickleberry might not have the benefit of this law. The motion failed with Senators Blaylock, Pinsoneault, Shaw, Towe, and Yellowtail voting in opposition. Senator Towe moved HB 295 again be recommended BE CONCURRED IN AS AMENDED. The motion carried with Senator Shaw voting in opposition.

There being no further business to come before the committee, the meeting was adjourned at 11:05 a.m.



Committee Chairman

ROLL CALL

SENATE JUDICIARY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 041585

NAME	PRESENT	ABSENT	EXCUSED --
Senator Chet Blaylock	X		X
Senator Bob Brown	X		
Senator Bruce D. Crippen			X
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw	X		
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		

PROPOSED AMENDMENTS TO HB 295:

1. Page 9, line 23.

Following: "~~52~~" to

Insert: "[",

2. Page 9, line 24.

Following: "5"

Insert: "]"

3. Page 13, line 6.

Following: "of"

Insert: "["

4. Page 13, line 7.

Following: "3"

Insert: "]"

5. Page 15, line 23.

Following: "No."

Strike: "252"

Insert: "110"

6. Page 15, line 24.

Following: "including"

Strike: "section 12"

Insert: "sections 10 and 14"

Following: "act"

Strike: remainder of line 24 through "252" on page]6, line 3 in
their entirety

Insert: ", the bracketed language in sections 10 and 14 is replaced
with a reference to Senate Bill No. 110"

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 1

DATE 04 15 85

BILL NO. H.B. 295

AMENDMENT TO HOUSE BILL 295

1. Page 2, line 21 and line 22
Following "61-1-130."
Strike: "A truck with 10,000 pounds or more gross vehicle
weight rating,"

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 2

DATE 04 15 85

BILL NO. H.B. 295

Montana Senate Judiciary Committee
Amendments to House Bill 295
Presented by the Motor Vehicle
Manufacturers Association
April 12, 1985

Amend House Third Reading Version of House Bill 295

Amendment No. 1

On Page 3, delete lines 10 through 14.

Amendment No. 2

On Page 8, delete lines 5 through 10 .

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 04 15 85
BILL NO. H.B. 295

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date _____ Bill No. _____ Time _____

NAME	YES	NO
Senator Chet Blaylock	X	
Senator Bob Brown	X	
Senator Bruce D. Crippen		
Senator Jack Galt	X	
Senator R. J. "Dick" Pinsoneault	X	
Senator James Shaw		X
Senator Thomas E. Towe		X
Senator William P. Yellowtail, Jr.		X
Vice Chairman		
Senator M. K. "Kermit" Daniels	X	
Chairman		
Senator Joe Mazurek	X	
	(6)	(3)

Secretary _____

Chairman _____

Motion: Reconsider action

(include enough information on motion—put with yellow copy of committee report.)

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 4

DATE 04 15 85

BILL NO. H.B. 295

STANDING COMMITTEE REPORT

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19 35

MR. PRESIDENT

JUDICIARY

We, your committee on

HOUSE BILL

No. 295

having had under consideration

third

reading copy (

blue

color

(Senator Christiaens)

REVISION OF MOTOR VEHICLE LEMON LAW

HOUSE BILL

No. 295

Respectfully report as follows: That

be amended as follows:

1. Page 7, line 13.

Following: "procedure"

Insert: "must afford the consumer or his representative an opportunity to appear and present evidence in Montana at a location reasonably convenient to the consumer, and further"

2. Page 8, line 9.

Following: "than"

Strike: "2"

Insert: "4"

3. Page 8, line 10.

Following: "repair"

Insert: "if the vehicle is retained for more than 3 days"

4. Page 9, line 23.

Following: "to"

Insert: "["

5. Page 9, line 24.

Following: "5"

Insert: "j"

Following: "."

Insert: "All arbitration shall take place in Montana at a place reasonably convenient to the consumer."

~~XXXXXX~~

~~XXXXXX~~

CONTINUED

Chairman.

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HOUSE BILL NO. 295

6. Page 13, line 6.

Following: "of"

Insert: "["

7. Page 13, line 7.

Following: "3"

Insert: "]"

8. Page 15, line 23.

Following: "No."

Strike: "252"

Insert: "110"

9. Page 15, line 24, through line 3, page 16.

Following: "including" on line 24

Strike: "section 12"

Insert: "sections 10 and 12"

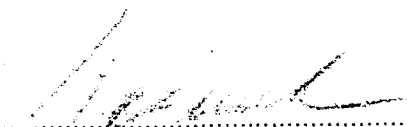
Following: "act" on line 24

Strike: remainder of line 24 through "252" on line 3, page 16, in their entirety

Insert: ", the bracketed language in sections 10 and 14 is replaced with a reference to Senate Bill No. 110"

AND AS AMENDED

BE CONCURRED IN


Senator Joe Mazurek, Chairman