

MINUTES OF THE MEETING  
HUMAN SERVICES AND AGING COMMITTEE  
50TH LEGISLATIVE SESSION  
HOUSE OF REPRESENTATIVES

January 13, 1987

The meeting of the Human Services and Aging Committee was called to order by Chairman R. Budd Gould on January 13, 1987, at 1:00 p.m. in Room 312-D of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 74: Rep. Fritz Daily, House District No. 69, explained that the bill would change the law that is currently on the books that if there are four junk vehicles present they must be shielded from public view to require if there is one junk vehicle that it must be shielded from public view. He then introduced Miss Carol Fox, who would further explain the need for the bill. He then passed out testimony from the Missoula Health Department supporting the bill and also HB No. 75. See EXHIBIT NO. 1.

PROPOSERS:

CAROL FOX, Director of the State Junk Vehicle Program, the Montana Department of Health and Environmental Sciences, reviewed the Montana Motor Vehicle Recycling Act that was passed in 1973, See EXHIBIT NO. 2. She proposed some minor changes to the law in HB No. 74, the first one being a new section stating that one or more junk vehicles must be shielded from public view. She then proposed to amend the criminal penalty section (75-10-542 (1), MCA) to read the same as the civil penalty section (75-10-542 (2), MCA). See EXHIBIT NO. 3. She stated she also had letters of support from county programs' directors, see EXHIBITS NOS. 4 and 5.

TOM BROPHY, member of the Silver-Bow County Commission, read his prepared statement in support of HB No. 74. See EXHIBIT NO. 6. He stated he had circulated written testimony from the Butte-Silver Bow Planning Board Director, Lee C. Tuott, see EXHIBIT NO. 7 and also the Butte-Silver Bow Sheriff, Robert Butorovich, see EXHIBIT NO. 8 in support of the bill.

RICK LARSON, Program Director of the Junk Vehicle Program in Silver-Bow County, read his prepared statement in support of the bill, see EXHIBIT NO. 9.

GREGORY A. BISHOP, Deputy Sheriff for Gallatin County and the Director of the Gallatin County Junk Vehicle Program. Mr. Bishop read his prepared statement in support of HB NO. 74.

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He urged the committee to enact the changes in the junk vehicle law. See EXHIBIT NO. 10.

DAVID LACKMAN, representing the Montana Public Health Association, stated that HB No. 74 and HB No. 75 come within the fervor of his environmental concerns and urged the committee's support of both of the bills.

OPPONENTS:

REP. DOROTHY CODY, House District No. 20, Wolf Point and Poplar, said as a legislator she has heard complaints from her constituents on actions that are taken by different departments that have been restrictive and hurtful to them as citizens. She testified concerning one of her constituents who had a junkyard that was 3,500 feet from a primary highway. She stated that the federal regulation was that bill boards and junkyards must be 1,000 feet from an interstate or primary highway. Since the Montana Department of Health and Environmental Sciences changed the regulation after 1983, she said her constituent has been in a battle over the location of his junkyard. She said the issue ended up in district court and the department lost its case, however they have appealed the case. She noted the owner of the business had 2,500 signatures on a petition in support of the business. She stated that she herself would be liable if this bill passed as she has a 1949 Dodge in her back lot that her seven sons have enjoyed taking apart and putting back together. She urged the committee to consider their actions before they vote in favor of this legislation.

HENRY LOHR, owner of Hank's Salvage, Townsend, stated there is already a law that isn't being enforced consistently, but if he happens to have something out of the fence he is notified immediately and expressed his opposition to the bill.

LORETTA MILLER, owner and operator of Green Meadow Auto Salvage in Helena, Secretary for Montana Auto Dismantlers and Recyclers Association (MADRA), stated her association opposes HB No. 74 basically on technicalities. She said that all the licensed salvage yards in the state are fenced, and that is no problem, however that it would be virtually impossible to enforce one junk vehicle in a yard. She said the regulation is already there and isn't being enforced now, and according to the Department of Health, they aren't changing anything. They are just putting it into a law instead of a rule. She read testimony from Parts Unlimited in Victor, Montana; Deke's

Auto Salvage and from A-1 Johnson in Billings in opposition to the bill.

REP. DAILY reiterated a few points that had been made during the testimony. One point was most wrecking facilities were in compliance with the current law; it is with other individuals that there is a problem. He said the bill is not meant to be a harassment bill, but there is a problem in our towns and communities in that if there are junk vehicles sitting around, the value of property decreases. He informed the committee that the law reads the county will come and remove any junk vehicle at no cost to the owner. He also noted there is a current statute that defines what a junk vehicle is, and if a car is licensed, it is not a junk vehicle.

QUESTIONS FROM THE COMMITTEE:

CHAIRMAN GOULD asked Rep. Daily if he was aware the committee would have to add an amendment because of the Daily amendment that would give an extension of rulemaking authority. REP. DAILY responded that if Chairman Gould felt they needed rulemaking authority to carry out this subject, then he would recommend that the committee do so. CHAIRMAN GOULD commented he buys late model salvage and it is at his house for two or three days while he is getting bids on repairs. He inquired as to how this bill would affect him. REP. DAILY referred the question to Carol Fox. Miss Fox explained there aren't very many program directors out spotting junk vehicles, however if it were to happen, she reviewed the procedure that is followed. She reported there is a long administrative effort to get compliance with the junk vehicle law.

REP. HANSEN asked Rep. Daily if he would object to removing the imprisonment in the county jail for a term of not to exceed thirty days. She said that Missoula County couldn't possibly comply with that because of overcrowded conditions, and she could not see imprisoning persons who merely did not comply with the regulations. REP. DAILY replied he would not object however he would rather she ask the health department that question.

REP. KITSELMAN stated that Yellowstone County and the City of Billings have adopted both county and city ordinances that deal within those jurisdictions the definition of junk vehicle removeable, time limits, etc. He expressed concern about changing the law to read civil penalty and asked who would bear the cost if the health department decides a person

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is in violation and must defend themselves? MISS FOX replied if it were a violation and the person was found not guilty, she would assume that part of the legal settlement would be that legal fees would be covered. She stated the civil penalties are already in the law and have been there since 1977, and HB No. 74 only makes the criminal penalty read the same as the civil penalty.

REP. SIMON questioned Miss Fox whether tractors, combines, or old vehicles behind a farmer's barn would fall under the junk vehicle definition. MISS FOX replied that farm machinery did not fall under the junk vehicle definition. REP. SIMON asked if the pickups or cars would fall under the definition? MISS FOX outlined the requirement of a junk vehicle and said the vehicles that Rep. Simon was describing would fall under the act. She said the bill would just facilitate the enforcement where the program was strong in the state. REP. SIMON commented that if the violation took place along a highway or in a city that the department would be enforcing the law but if it were an agricultural area they would let it go by. He asked Miss Fox to explain the difference in the interpretation. MISS FOX responded there was no difference in the interpretation but a difference in the policy of how much time and money the programs have to enforce the law.

REP. GILBERT asked Miss Fox whether the statute says four or more junk vehicles. MISS FOX explained that Section 502 says by "prima facie evidence, accumulation of four or more junk vehicles are considered to be wrecking facilities". In the next section of the law it reads it allows the department to adopt rules governing the shielding of any junk vehicle and governing the control of any junk vehicle.

CHAIRMAN GOULD closed the hearing on HB No. 74 and opened the hearing on HB No. 75.

CONSIDERATION OF HOUSE BILL NO. 75:

REP. FRITZ DAILY, House District No. 69 stated he introduced the bill at the request of Tom Brophy who would speak on behalf of the bill. He stated the bill will raise the initial license fee for new auto wrecking facilities from \$50 to \$300. He introduced Carol Fox again to explain the need for the bill.

CAROL FOX, Department of Health and Environmental Sciences, stated that her testimony was included in the packet she

had passed out for HB No. 74. She said in HB No. 75 they were proposing to increase the license fee for a motor vehicle wrecking facility from \$50 to \$300 to try to remove some of the abuses of the motor vehicle wrecking facility licensing process and also to recoup some of the administrative costs incurred in reviewing the applications from a license. She reviewed her written statement, see EXHIBIT NO. 11. She summarized her statement by saying that this proposal would encourage the submission of applications from well planned, legitimate salvage business ventures. It will keep the licensing process in intent with the law.

TOM BROPHY, Member of the Butte-Silver Bow Council of Commissioners stated that his previous testimony covered his statements regarding both HB No. 74 and HB No. 75. He said he would only add that he supports HB No. 75 because the bill will help curb the monetary incentive which used car dealers now have to buy the less expensive motor vehicle wrecking license in lieu of obtaining a more appropriate and expensive used car dealer's license. It will also help to pay more for the administrative costs associated with the review with the application of a motor vehicle wrecking license and in their opinion will provide a fair and nonselective basis for enforcement.

LORETTA MILLER, owner and operator of Green Meadow Auto Salvage, Secretary for the Montana Association of MADRA, stated she supported the bill except for page 2, line 17 where it says "or is sold". That section of the bill has to do with the nontransferability of the license. She also stated they do not like the extension of authority part of the bill, and according to Carol Fox's lawyers that is not a necessary part of the bill.

OPPONENTS:

REP. CODY stated her main objection to the bill is not the \$300 for a new license, but the new section on page 2, lines 20-24 which gives an extension of authority to the Department of Health and Environmental Sciences to make rules on the subject that this provision of this act is extended to the provisions of this act.

HENRY LOHR, Hank's Salvage, Townsend, Montana was opposed to line 17. He stated if you sell your business, the license should go with it. He stated this was clarified once before that the license would transfer with the business when sold. He thought these people who want to make these rules should

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notify people they are making them and not wait until they are in violation and enforce the new rule.

REP. DAILY closed by saying that this bill only applied to new wrecking facilities and not existing wrecking facilities. In regards to the transfer of the licenses, the only time the department would not allow that transfer would be if the wrecking facility was in an area that is zoned not to allow wrecking facilities. He said the department did not have any serious problems if the bill was amended to go along with what Loretta Miller was saying, if the two sections she referred to were eliminated that would be fine with the department.

QUESTIONS FROM THE COMMITTEE:

There being no questions, Chairman Gould moved into executive action on HB No. 74 and HB No. 75.

EXECUTIVE ACTION:

REP. CODY moved that HB No. 74 DO NOT PASS. The question was called for; the motion CARRIED unanimously. Rep. Cody then moved that HB No. 75 DO NOT PASS. Rep. Hansen made a substitute motion to TABLE HB No. 75. She stated the bill could be worked out if they removed the rulemaking authority. The motion FAILED and the committee reverted to the original motion of Rep. Cody.

REP. CORNE' spoke against the motion saying if they would amend line 16 through 24 out of the bill, it would make a good bill and he would like to retain that portion of the bill. He moved that lines 16 through 24 be deleted. Chairman Gould asked for discussion.

REP. GILBERT stated he had a problem with the scope of the amendment because they would be striking some current law in lines 16 through 19. The only new language in that section is "or is sold" contained on line 17, and where they struck the word "shall" and inserted the word "must" on line 17.

LEE HEIMAN, Legislative Council Staff Member, agreed with Rep. Gilbert that the amendment should strike the "or is sold" on line 17 to return it to the original existing language.

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REP. CORNE' moved to change his motion to delete the words  
"or is sold".

REP. SIMON asked if the motion also restored the word "shall"  
and struck the word "must". Rep. Corne' replied yes.

REP. SANDS asked what the practical affect of this was.  
If you sell the license, the business, the new owner would  
have to pay an initial license fee and thereafter would pay  
the \$50. Is that primarily the affect of this?

REP. GOULD responded his impression from listening to the  
testimony of Carol Fox was that only on new applications  
for wrecking licenses will there be the \$300 fee.

REP. SANDS asked for clarification of that point from Miss  
Fox. With no objection from the committee, Miss Fox replied  
item number four is the law that would affect a new owner.

CHAIRMAN GOULD stated they would vote on the amendment.  
The question was called for; the motion PASSED.

REP. CORNE' moved that HB No. 75 DO PASS AS AMENDED. The  
question was called for; a roll call vote was taken with  
8 favorable and 10 opposing votes. The motion FAILED.

REP. KITSELMAN moved that the vote be reversed and the bill  
DO NOT PASS. Chairman Gould requested the committee's approval  
to do so. The vote was reversed.

CHAIRMAN GOULD informed the committee regarding the bills  
they would be hearing on Thursday.

REP. KITSELMAN moved to adjourn. The meeting was adjourned  
at 2:15 p.m.

CHAIRMAN R. BUDD GOULD

## DAILY ROLL CALL

HUMAN SERVICES AND AGING

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date

JAN 13, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. BUDD GOULD, CHAIRMAN	✓		
REP. BOB GILBERT, VICE CHAIRMAN	✓		
REP. JAN BROWN	✓		
REP. DUANE COMPTON	✓		
REP. DOROTHY CODY	✓		
REP. DICK CORNE'	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. LES KITSELMAN	✓		
REP. LLOYD MC CORMICK	✓		
REP. RICHARD NELSON	✓		
REP. JOHN PATTERSON	✓		
REP. ANGELA RUSSELL	✓		
REP. JACK SANDS	✓		
REP. BRUCE SIMON	✓		
REP. CAROLYN SQUIRES	✓		
REP. TONIA STRATFORD	✓		
REP. BILL STRIZICH	✓		

# STANDING COMMITTEE REPORT

January 13, 19 37

Mr. Speaker: We, the committee on HUMAN SERVICES AND AGING

report HOUSE BILL NO. 74

☐ do pass  
☒ do not pass

☐ be concurred in  
☐ be not concurred in

☐ as amended  
☐ statement of intent attached

REP. R. BUDD GOULD,

Chairman

**CLARIFY LIABILITY OF JUNK VEHICLE OWNERS**

7/25  
**FIRST**

**WHITE**

reading copy ( )  
color

ROLL CALL VOTE

HUMAN SERVICES AND AGING

COMMITTEE

DATE Jan 13, 1987 BILL NO. HB#74 NUMBER #1

NAME	AYE	NAY
REP. BUDD GOULD, CHAIRMAN	✓	
REP. BOB GILBERT, VICE CHAIRMAN	✓	
REP. JAN BROWN	✓	
REP. DUANE COMPTON	✓	
REP. DOROTHY CODY	✓	
REP. DICK CORNE'	✓	
REP. LARRY GRINDE	✓	
REP. STELLA JEAN HANSEN	✓	
REP. LES KITSELMAN	✓	
REP. LLOYD MC CORMICK	✓	
REP. RICHARD NELSON	✓	
REP. JOHN PATTERSON	✓	
REP. ANGELA RUSSELL	✓	
REP. JACK SANDS	✓	
REP. BRUCE SIMON	✓	
REP. CAROLYN SQUIRES	✓	
REP. TONIA STRATFORD	✓	
REP. BILL STRIZICH	✓	

TALLY

18

Secretary

Chairman

MOTION: Rep. Dorothy Cody moved that House Bill # 74

DO NOT PASS.

# STANDING COMMITTEE REPORT

January 13, 1937

Mr. Speaker: We, the committee on INDIAN SERVICES AND AGING  
report HOUSE BILL NO. 75

☐ do pass  
☒ do not pass

☐ be concurred in  
☐ be not concurred in

☒ as amended  
☐ statement of intent attached

REP. R. BUDD GOULD,

Chairman

## CHANGING AND CLARIFYING MOTOR VEHICLE WRECKING FACILITIES FEES

*Amendments on attached sheet -  
Lee Heiman typed them  
(get copy)*

*W.M.*  
FIRST

WHITE

reading copy ( \_\_\_\_\_ )  
color

1. Page 2, line 17.  
Strike: "or is sold"  
Strike: "must"  
Insert: "shall"

2. Page 2, lines 20 through 24  
Strike: Section 2 in its entirety

SHIRLEY  
HERRIN  
3/2-E

TR

# ROLL CALL VOTE

HUMAN SERVICES AND AGING

COMMITTEE

DATE January 13, 1987 BILL NO. HB # 75

NUMBER 2

NAME	AYE	NAY
REP. BUDD GOULD, CHAIRMAN	x	
REP. BOB GILBERT, VICE CHAIRMAN	x	
REP. JAN BROWN		x
REP. DUANE COMPTON		x
REP. DOROTHY CODY		x
REP. DICK CORNE'	x	
REP. LARRY GRINDE		x
REP. STELLA JEAN HANSEN	x	
REP. LES KITSELMAN		x
REP. LLOYD MC CORMICK		x
REP. RICHARD NELSON		x
REP. JOHN PATTERSON		x
REP. ANGELA RUSSELL	x	
REP. JACK SANDS		x
REP. BRUCE SIMON		x
REP. CAROLYN SQUIRES	x	
REP. TONIA STRATFORD	x	
REP. BILL STRIZICH	x	

TALLY

8

10

*Seidman Harris*  
Secretary

*W. R. ...*  
Chairman

MOTION: Rep. Corne' moved that House Bill # 75 DO PASS AS

AMENDED.

Rep. Kitselman moved that we reverse the vote and

the bill DO NOT PASS. Motion CARRIED.

EXHIBIT # 1  
DATE 1-13-87  
HB # 74 + HB # 75

January 9, 1987

Bud Gould, Chairman  
Health and Human Services Committee  
Montana House of Representatives  
Helena, MT 59620

Dear Mr. Gould,

I regret that I am unable to attend the meeting at which your committee will hear testimony on House Bill 74 and 75. Please consider the following comments on behalf of the Western Montana Junk Vehicle District (Missoula and Mineral Counties):

HOUSE BILL 74

Missoula County has always enforced the Motor Vehicle Recycling and Disposal Act for one or more junk vehicles regardless of ownership. The new language proposed in H.B. 74 is more concise and clear than the existing language and will help the Local County Attorney streamline our enforcement efforts.

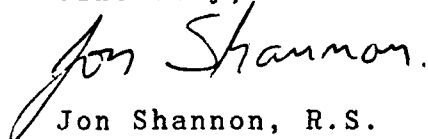
I believe the proposed language is constant with the intent of the Law and will eliminate much of the on-going confusion about enforcement of the rules regarding shielding of less than four junk vehicles.

HOUSE BILL 75

I strongly support raising the licensing fee for Motor Vehicle Wrecking Facilities from \$50.00 to \$300.00. Fifty dollars does not begin to cover the cost to the State for State and Local review of license applications. In addition, many auto repair shops, auto body shops, and other businesses have been licensed by the State as "Motor Vehicle Wrecking Facilities" so that they can attend Insurance Company Auctions of wrecked cars. This creates unnecessary administrative costs for local programs and is not consistent with the intent of the Law.

I hope you will support the Solid and Hazardous Waste Bureau by encouraging the passage of these bills.

Sincerely,



Jon Shannon, R.S.  
Program Director  
Western Montana Junk Vehicle

Summary of Montana Motor Vehicle Recycling  
Disposal Program Operation & Accomplishments

The Montana Motor Vehicle Recycling and Disposal Act, passed in 1973, and the rules adopted pursuant to it, serve to improve the aesthetics of Montana and promote recycling by:

- 1) requiring wrecking facilities to be licensed and screened from public view;
- 2) requiring any junk vehicle to be screened from public view; and
- 3) providing funding for county junk vehicle programs to offer a free junk vehicle disposal service for the public and to administer and enforce the law and regulations.

There are three sources of revenue for disposal and enforcement of programs: 1) a \$1.50 title transfer fee and \$.50 license reregistration fee, which generate approximately \$600,000 annually; 2) revenue from car recycling, which averages \$50,000 annually; and, 3) revenue from wrecking facility license fees, which averages \$10,000 annually.

The Junk Vehicle Program is the only statewide resource recovery program in Montana and considered one of the best programs nationwide. Since 1973, over 100,000 tons of junk vehicles have been recycled through the free county disposal programs. Even after 13 years of collection, county programs are still collecting between 6,000 and 7,000 eyesore junk vehicles annually. In addition, thousands more are screened from view or recycled through the private wrecking facilities as a result of enforcement of the junk vehicle law.

CF/ba

# Junker citations irk Potomac man

By THERESA JOHNSON  
of the Missoulian

Gary Henning of Potomac has bought and sold auto parts for 27 years. He has more than a dozen rusted cars in his driveway, and keeps more old wrecks behind the fence next to his house.

The state wants Henning to get those junkers out of sight, it's seeking a court order to force him to build a better fence and buy the license required to run a wrecking yard.

Henning could face fines of \$100 a day if he doesn't comply with state regulations, Carol Fox of the state's Solid and Hazardous Wastes Bureau said Friday.

"It's screwy," Henning said. "It's nuts. It's totally not man-tana."

The state is also planning to fine Roger Garman, who lives about a mile west of Henning on Highway 200. Garman's forested lot is

crowded with old car bodies, farm equipment, broken appliances, tires, bent tricycles and rusted toys.

One section of dilapidated fence hides part of Garman's yard from motorists, but state law requires anyone with more than four junk vehicles to keep them completely concealed.

Like Henning, Garman has no license to run a wrecking yard.

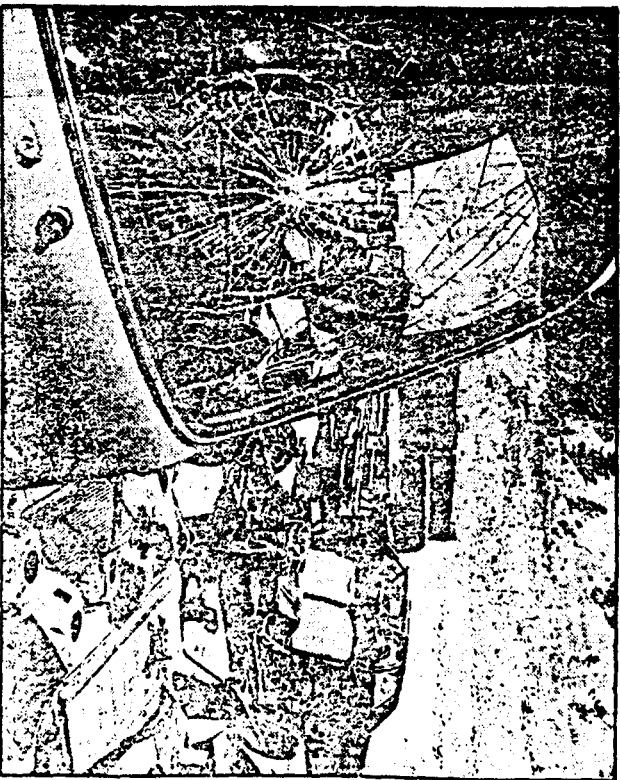
Those licenses are administered by the county, and cost \$50 a year.

Garman was not at home Friday afternoon, and could not be reached for comment.

But Henning said neither of the two men can afford to put up a fence or pay thousands of dollars in fines.

"It's tough scratching it out when you don't make a whole lot of money," he said. "My family comes first before a damn fence."

Henning said that he recently sold all his junk cars. Those ve-



hicles will be hauled away in a few days, he said. He said he hopes that ends his battle with the state.

"The worst thing you can do is get mad," he said. "If you get mad at the system they take you apart piece by piece."

Jon Shannon of the Missoula City-County Health Department said that the county has warned Henning and Garman to follow the law after receiving com-

plaints about both men. But Henning said that he hasn't had any complaints from his neighbors.

And Lorella Hayes, one of his nearest neighbors, said she hasn't heard any hue and cry about Henning's yard, either.

"It hasn't bothered me," said Hayes, who lives about a half-mile from Henning. But she added: "If he lived right next to me I might not like it."

2—The Montana Standard, Butte, Friday, April 4, 1976.

## Butte / Silver Bow

# Butte moves to oust junk cars from private lots

By Dan Carter  
Standard Staff Writer

Responding to an outpouring of public sentiment, Chief Executive Don Peoples has appointed an ad hoc committee to study the problem of junk cars in Butte.

Peoples told the Council of Commissioners Wednesday night that the junk car problem is becoming an embarrassment in some Mining City neighborhoods and something needs to be done soon.

"Myself and several commissioners have received an awful lot of telephone calls about this," Peoples

said, "so I think we have a duty to respond."

The seven officials he designated to study local and state laws dealing with the storage of junk vehicles on private property and to find a more effective way to deal with the problem locally are: Commissioners Tom Brophy, Jim Casey and Ed Heard, County Attorney Bob McCarthy, Health Director Bill Burke, Sheriff Bob Butorovich and Planning Director Lee Tuoli.

Brophy, who will chair the committee, said one citizen in his district told him that one parcel of

property is home to seven junked cars, two pickups and a bus with a Wyoming license plate.

He said no attempt has been made for several months to move or dispose of the vehicles and said there needs to be a law so the government can remove the junkers if the owners won't.

"There's a crying demand that we do something," Brophy said, "and we certainly won't be taking anything away by getting rid of these nuisances. We'd be adding to the peace of mind of the community if anything."

"The real problem we have is that the state has such a horrible law dealing with junk cars," said McCarthy.

He said bills have been submitted to past Legislatures to stiffen the laws, but were killed by pressure from the junk dealers lobby.

McCarthy said junk vehicles left on the street or in public areas can be controlled under traffic ordinances, but those on private property can't.

"What you're talking about is controlling the way people use their property," he said. "That's a pretty

tricky situation."

He said it is questionable whether Butte-Silver Bow, a charter government with self-governing powers, can enact a law more restrictive than state laws, particularly in view of court rulings against the Butte-Silver Bow zoning law.

"Every case that was brought up under our zoning laws in court we've lost," he said. "In every case the court determines that the (land) use existed before the zoning laws were enacted."

In other business, the council:

- Approved a contract with the

Highway Traffic Safety Administration giving Butte \$6,000 for drunk driving enforcement. The federal funds will pay overtime pay for police officers working on the local DUI Task Force, training and other community service programs.

- Approved a \$15,000 contract with Wilbur Smith and Associates of San Francisco for a performance study of the Butte Transit System.

- Appointed Janet Ore, Historic Preservation Officer, to fill a temporary vacancy on the Zoning Board of Adjustments. Ore will replace Lefty Dowdall, who resigned.

S & C Auto Repair & Wrecking  
1925 - 32nd Avenue South  
Great Falls, Montana 59405  
January 8, 1987

Department of Health & Environmental Sciences  
Cogswell Building  
Helena, Montana 59620

Attention: Carol Fox

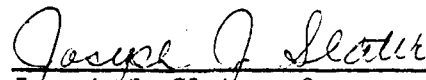
Dear Carol:

The purpose of this letter is to advise you that we support the amendments to the Montana Motor Vehicle Recycling and Disposal Act which the legislature is proposing through H.B. 74 and H.B. 75. As a licensed wrecking facility, we feel that these two amendments would give your department the needed regulatory and enforcement tools which are necessary for your department to effectively implement the existing law.

In the past few years, most of the licensed wrecking facilities have been brought to compliance through the efforts of your department; however, the law as it is now on the books does not address the problem of unlicensed facilities and individuals who have unshielded junk vehicles on their property. We feel that by passage of H.B. 74 and H.B. 75, you will be able to more effectively take care of this problem by being able to levy fines and clarifying the language of the existing law.

Very truly yours,

S & C AUTO REPAIR, WRECKING & TOWING

  
\_\_\_\_\_  
Joseph J. Slater, Owner

Testimony on HB74, a bill to amend the  
Montana Motor Vehicle Recycling and Disposal Act

Montana Department of Health & Environmental Sciences  
Solid & Hazardous Waste Bureau

HB74: A bill for an Act entitled "an Act to clarify liability of junk vehicle owners; to require that all junk vehicles be shielded from public view; amending Section 75-10-542 MCA; and providing an immediate effective date."

In this bill, we propose two minor housekeeping changes to the Montana Motor Vehicle Recycling and Disposal Act, passed in 1973. The Act and regulations adopted pursuant to it serve to improve the aesthetics of Montana and promote recycling by requiring all junk vehicles to be screened from public view and all motor vehicle wrecking facilities to be screened and licensed.

> First, we propose adding a new section stating that one or more junk vehicles must be shielded from public view.

The Act requires all motor vehicle wrecking facilities, which deal in four or more vehicles per year for the purposes of dismantling, to be licensed by the state. As a prerequisite for licensing, a wrecking facility must be screened from public view.

The Act also requires the Department to adopt rules for the shielding of junk vehicles in other locations besides wrecking facilities (75-10-503(2) & (6) MCA). The rules adopted pursuant to the Act require any junk vehicle to be shielded from public view (16.14.202 ARM).

This amendment would codify these rules that require the shielding of any junk vehicle from public view. We request this codification to assist county program directors enforcing the junk vehicle law and rules. Because the Act specifically addresses the licensing and shielding of motor vehicle wrecking facilities, but refers to rules for requirements of shielding for any junk vehicle, there is a common misunderstanding among the public that only wrecking facilities must be screened from public view. Further, some county attorneys are reluctant to enforce administrative rules, but not statutes. This misunderstanding and reluctance has hampered enforcement of junk vehicle violations

involving a few junk vehicles. Enclosed are two samples from the media exhibiting these problems.

Some county program directors and attorneys have asked that we codify the shielding rules so that the language reflects its intent.

- These rules have been in effect and enforced for over 10 years, so this amendment would not change what we enforce. Rather, it would facilitate that enforcement by clarifying that state law requires even one junk vehicle to be shielded from public view.

Second, we propose to amend the criminal penalty section (75-10-542 (1) MCA) to read the same as the civil penalty section (75-10-542 (2) MCA).

Up to 1977, violations of the junk vehicle law allowed for a criminal penalty only. The 1977 Legislature amended the law, adding a provision that allowed for civil penalties as well. However, instead of having parallel language, the language of the civil penalty section was made more inclusive than the existing language of the criminal penalty section. The civil penalty section reads "for violations of this part, a rule by the department, or an order issued as provided in this part." In contrast, the criminal penalty section reads "for violations of this part" only. This discrepancy between the language was recently brought to our attention by a county attorney who believed the more inclusive language of the civil penalty precluded seeking a criminal penalty for rule violations.

County attorneys would like to have the discretion to seek criminal or civil penalties as appropriate to the specific violations. This amendment would clarify that, like civil penalties, criminal penalties may be levied for violating not only the Act, but also any DHES rules or orders under the Act. Since state and county attorneys have sought both criminal and civil penalties for violations of the Act and rule, this amendment would not be inventing a new penalty regime. Rather, it just clarifies the legality of seeking either penalty.

CITY-COUNTY HEALTH DEPARTMENT

1130 - 17TH AVE. SOUTH

GREAT FALLS, MONTANA 59405

EXHIBIT # 4  
DATE 1-13-87  
HBs # 74 & 75

BOARD OF HEALTH

COUNTY COMMISSIONER  
MAYOR  
SUPERINTENDENT CITY SCHOOLS  
REPRESENTATIVE MEDICAL SOCIETY  
REPRESENTATIVE DENTAL SOCIETY

PHONE  
761-1190

January 9, 1987

Representative Bud Gould, Chairman  
House Health & Human Services Committee  
Montana House of Representatives  
Capitol Station  
Helena, Montana 59620

Re: HB74 - Support

Dear Chairman Gould & Committee Members:

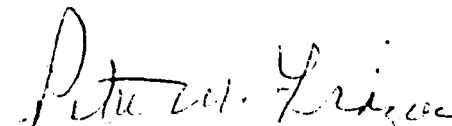
As I will be unable to attend the hearing, I am taking this opportunity to express my support for House Bill 74.

Having been Director of the Cascade County Junk Vehicle Disposal Program since the inception of the program in 1974, I have experienced many cases when confusion exists as to why it is necessary for one to three junks to be shielded since the current law does not make this point clear. Many times, county and city attorneys feel it is necessary to shield only four or more vehicles due to the wording of MCA 75-10-502. The intention of the current law has always been that all junk vehicles must be shielded from public view, but the current law does not truly clarify this intention. HB74 will clarify this confusing situation and, in so doing, will greatly enhance the ability of program directors and county and city attorneys to more effectively enforce this Motor Vehicle Recycling and Disposal Act.

I urge the committee to rate "DO PASS" on HB74.

Sincerely,

CITY-COUNTY BOARD OF HEALTH



Peter M. Frazier, Director  
Cascade County Junk Vehicle  
Disposal Program

PMF/tag

1/8/87

Representative Bud Gould, Chairman  
House, Health, and Human Services Committee  
Capital Station  
Helena, Mt.

Dear Representative Gould:

This letter is written to lend support to HB74 (Dally) which would clarify the liability of junk vehicle owners and require that all junk vehicles be shielded from public view.

As the junk vehicle director for Dawson, Prairie, and Wibaux Counties, I find it difficult to enforce the Junk Vehicle Law because the county attorneys have a problem acting in cases where there are three or less junk vehicles. The following are quotes from Richard A Simonton, Dawson County Attorney, in a letter to me, dated Dec. 9, 1986.

"I see very serious problems in trying to enforce the Junk Vehicle Law against less than four (4) vehicles since there is no presumption of a motor vehicle wrecking facility under those circumstances."

"I envision all kinds of legitimate arguments that 1, 2 or 3 vehicles on a person's property are not Junk Vehicles as defined by the Statute. I see some very practical problems in convincing the jury that I cannot have 1 or 2 vehicles on my property for use as parts for my own vehicles. I also see problems in our proving that a person does not have the vehicles on his property to fix up."

I believe County Attorneys use the vagueness of the present law for a reason not to work on what they feel is a low priority activity. If it were made clear that all Junk Vehicles, regardless of number, had to be shielded, then Program Directors could proceed with enforcement without first having to prove to the County Attorney a car is indeed a Junk Vehicle.

I believe HB74 would definitely help Junk Vehicle Directors, statewide, run their programs more effectively and efficiently, not to mention making the landscape of this Great State more attractive to our own residents and the many travelers who visit Montana each year.

Thank you for your time and consideration in this matter.

Yours for a better environment,

*Dennis J. Snow R.S.*

Dennis J. Snow R.S.  
Junk Vehicle Director

TESTIMONY ON HB 74 & 75

I am Tom Brophy, a member of the Butte-Silver Bow Council of Commissioners.

I am interested in better control of junk vehicles and small wrecking facilities. We need them but we need to be able to regulate them on the local level. I see a need to make the small independent operators subject to the same regulations as the other wrecking yards are.

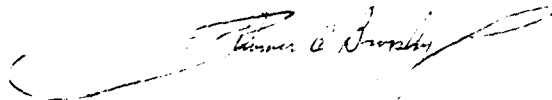
In Butte-Silver Bow, we have a problem with small operators who set up in a vacant lot, often in or near a residential area and they contribute to the disruption of the peace and harmony of the area and to community decay in a neighborhood and become general nuisances.

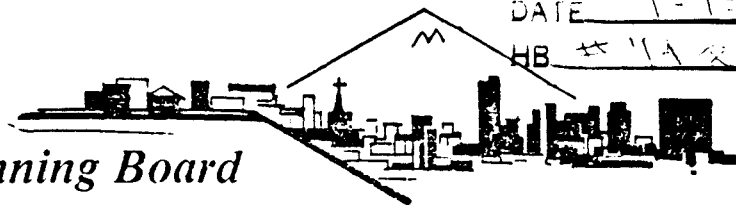
Some will secure a used car business license to shield their salvage operations and "thumb their noses" at the law enforcement people. I have personally had complaints from elderly residents in my district where these individuals are salvaging vehicle parts at 10 or 11PM, playing loud music, drinking and using foul language and the residents hesitate to call the police for fear of having broken windows or being otherwise harassed.

The Butte-Silver Bow County Attorney would like to have the option of seeking either civil or criminal penalties for junk vehicle violations.

I appear before you today as a proponent of HB74 & 75 which will help eliminate eysores in our community and provide a penalty that will be enforceable by civil or criminal action.

Thank you,





## Butte-Silver Bow Planning Board

January 13, 1987

Human Services and Aging Committee  
Helena, MT 59601

Honorable Chairman and Committee Members:

### House Bill 74


I support the bill since it accomplishes two very important things. First, it helps to clarify the existing law by specifically requiring the shielding of one or more junk vehicles from public view. In Butte-Silver Bow we had attempted to strengthen the local ordinances in this manner but were stymied when the reviewing judge stated that the State of Montana has pre-empted regulation of junk vehicles on private property. As written, this bill will give local governments the ability to require the removal or screening of less than four junk vehicles.

Secondly, this bill allows local government the flexibility to seek either a civil or criminal penalty for a violation of the law or rules. The attorneys need this flexibility in order to successfully prosecute any violations.

### House Bill 75

I support House Bill 75. This bill will help to curb the monetary incentive which used car dealers have to buy the less expensive motor vehicle wrecking license in lieu of obtaining the more appropriate (and expensive) used car dealers license. Furthermore, it will help to pay more of the administrative costs associated with the review of the application for a motor vehicle wrecking license.

Sincerely,

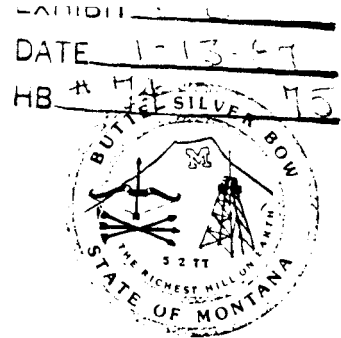
  
Lee C. Tuott, Director /aa  
Butte-Silver Bow Planning Board

LCT/dka



## Sheriff's Office

Butte - Silver Bow  
120 S. Idaho  
Butte, Mont.  
59701



RADIO  
KNHC 284

406/782-4224

ROBERT BUTOROVICH  
Sheriff

JOSEPH E. LEE  
Undersheriff

JEAN RILEY  
Secretary

January 13, 1987

Mr. Fritz Daily  
State Representative  
District 69  
Butte-Silver Bow County  
Butte, Montana 59701

Dear Fritz,

I am writing this letter in reference to House Bill 74 and House Bill 75. You are aware from our telephone conversation of January 9, 1987 that I am a proponent of the two bills.

As Sheriff of Butte-Silver Bow County, I feel compelled to seek your support as well as the support of the other committee members in regulating junkyards and particularly new junkyards who seem to find loopholes in the present law and operate illegally.

Your support of the two bills will be appreciated.

Respectfully,

Robert Butorovich, Sheriff  
BUTTE-SILVER BOW LAW ENFORCEMENT AGENCY

js

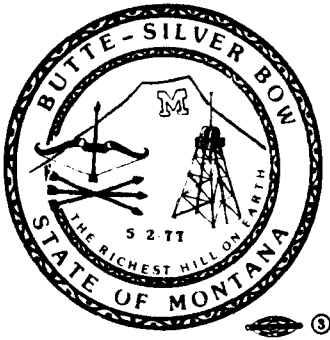
EXHIBIT # 1  
DATE 1-13-87  
HB 74  
BUTTE-SILVER BOW HEALTH DEPARTMENT

~~58 WEST QUARTZ~~ 53 WEST GRANITE

406-723-3271

BUTTE, MONTANA 59701

January 13, 1987



As program director of the Junk Vehicle Program for Silver Bow County, I am a proponent of H. B. 74.

We have experienced enforcement problems concerning violators of the Junk Vehicle Law who are in possession of less than four junk vehicles on their property. I feel that H. B. 74 will help clarify the law concerning these violations and will help the general public to better understand the Junk Vehicle Law.

I believe the second part of H. B. 74 will aid county attorneys in enforcing the Junk Vehicle Law. If county attorneys can use their discretion in seeking either civil penalties or criminal penalties they will be more likely to prosecute cases.

Rick Larson, R.S.

State of Montana

# County of Gallatin

Bozeman



EXHIBIT # 10  
DATE 1-13-87  
HB 774 & 775

Testimony on HB74, a bill to amend the  
Montana Motor Vehicle Recycling and Disposal Act

HB74: An Act to clarify liability of junk vehicle owners; to require that all junk vehicles be shielded from public view; amending Section 75-10-542 MCA; and providing an immediate effective date.

Since 1978, the states junk vehicle law has been enforced in Gallatin county through the Gallatin county Sheriff's Department. I personally have been the director for the past six years. Through that time we have been able to run a successful junk vehicle program for our county, resulting in an average of 300 junk vehicles collected annually. Both the Sheriff and the Gallatin County Commissioners are very pleased with and supportive of our program.

For the last few years, I have felt that there should be some minor changes made in the wording of the junk vehicle law not only to aid in our enforcement efforts, but also to help the general public better understand the law. I believe HB74 will do this for us. Specifically, I have run into several instances ~~where~~ individuals, who after reading a notice of violation sent to them by our office, ~~were~~ under the impression that they did not have to shield their junk vehicles since they did not possess four or more junk vehicles as described in the law. After explaining the Administrative Rules to them, most have complied though it is confusing. There are, however, those who refuse to comply. In these cases it is difficult for us to prosecute since the law, as interpreted by our county attorney, states that violation of rules must be dealt with by civil penalties. Our county attorneys office is reluctant to prosecute these cases because of the time involved and their own overwhelming caseloads.

For these reasons, I would strongly urge you to enact these changes in ~~b~~he junk vehicle law. Doing so would not only enhance our ability to enforce the law in Gallatin County, but would help the public to better understand it.

Gregory A. Bishop  
Deputy Sheriff  
Gallatin County Sheriff's Dept.

Testimony on HB75, a bill to amend the  
Montana Motor Vehicle Recycling and Disposal Act

Montana Department of Health & Environmental Sciences  
Solid & Hazardous Waste Bureau

HB75: A bill for an act entitled "an Act to change the initial application fee for a motor vehicle wrecking facility and to clarify the annual license fee and the license fee for existing facilities newly acquired, and amending section 75-10-511 MCA."

We propose amending the Act to increase the initial license fee for new wrecking facilities from \$50 to \$300. This amendment will curb two abuses of the motor vehicle wrecking facility licenses: 1) Using a license to buy wrecks at insurance auctions, and 2) Using a license to circumvent the used car dealer license fees.

Either a wrecking facility license or a used car dealer's license is required to purchase insurance wrecks at Arrowfactors in Missoula, the only licensed salvage pool in Montana. Because a wrecking facility license costs considerably less than a used car license (\$50 vs \$300), we receive many requests for a wrecking facility license from people only interested in rebuilding a couple of vehicles. Further, the \$300 initial application fee for a used car dealers license is waived for licensed wrecking facilities, which creates an incentive for used car dealers to apply for wrecking facility licenses before obtaining a dealer's license.

These two incentives to have a wrecking facility license have increased the number of applications for a license and, consequently, increased the administrative workload associated with the application review and facility inspection at both the county and state level. The current \$50 fee does not begin to adequately cover application processing costs. A Preliminary Environmental Review, which can entail lengthy research time, public hearings, and even a legal review, must be prepared for new wrecking facilities. Raising the wrecking facility license fee to \$300 will not only eliminate the incentive of having a

wrecking facility license instead of a dealer's license, but also will enable us to recoup the application review costs.

Further, making the application fee nonrefundable will allow us to recoup administrative costs from proposals we receive and review that never materialize into facilities. Under the current Act, the Department prepares a Preliminary Environmental Review, circulates it, receives and reviews comments, and issues a notice of intent to license or to deny a license. No fees are required until an approved facility is screened and ready to begin salvaging activity. We receive a few applications each year for which we conduct the review and afterwards the applicant decides not to construct the facility. With a nonrefundable application fee, we will be able to recoup administrative costs whether or not a proposed facility is established.

This amendment would only affect applicants for new wrecking facilities. The initial application fee for new owners of previously licensed facilities would remain \$50, prorated quarterly, and the annual license renewal fee would remain \$50.

We expect an annual increase of \$1,500 in licensing fees as a result of this legislation. Typically, we review 12 new applications each year, about half of which are from individuals only interested in buying and rebuilding insurance wrecks. Therefore, we expect to receive only six new applications per year for which a \$300 instead of a \$50 application fee would be assessed.

In sum, this amendment will encourage the submission of applications for well planned, legitimate salvage business ventures. It will keep the licensing process in line with the intent of the law.

## VISITORS' REGISTER

HUMAN SERVICES AND AGING

COMMITTEE

BILL NO. HB# 74 - 75DATE JAN 13, 1986SPONSOR REP. DAILY

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Thomas O. BROPHY	Commissioner 10415 Arizona Butte MT	X	
Bob Butorovich	Shiriff Butte Testimony	X	
Lee Tuott	Planning Director " "	X	
GREGORY A BISHOP	GALLATIN CO SHERIFFS LEPT. GALLATIN CO. GREENIAN	X	
Rick Larson	Butte-Silver Bow Health Dept	X	
Duane Robertson	Dept of Health	X	
David Lackman	MT Public Health Assn	X	
Carl Fey	Dept. of Health & Env Sci	X	
Tertha Miller	MADRA 75	X	
Tertha Miller	MADRA 74		X
Henry E. Lohr	Hank's Salvage		
Henry E. Lohr	Hank's Salvage 75		X
Rep. Harold G. Boddy	Wolf Point 74		X
Sam	Washington D.		

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.