

MINUTES OF THE MEETING
HIGHWAYS & TRANSPORTATION COMMITTEE
MONTANA STATE SENATE

February 21, 1987

The meeting of the Highways and Transportation Committee was called to order at 1:00 p.m., February 21, 1987, by Chairman Larry Tveit in Room 410 of the State Capitol.

ROLL CALL: All members of the Highways and Transportation Committee were present except Senator Hager who was absent.

CONSIDERATION ON SENATE BILL NO. 366: Senator Meyer, Senate District No. 17, sponsor of the bill, testified that Senate Bill 366 would change the authority of GVW Officers of the Department of Highways by limiting their authority to the issuance of notice to appear and by designating them as public servants rather than peace officers. As peace officers they would no longer issue warrants for arrest, but instead they would issue notices to appear in connection with the violations of safety standards.

PROPOSERS: Gary Wicks, Director, Department of Highways, Senate District No. 17, sponsor of the bill, testified that Senate Bill 366 would designate GVW Officers as public servants and not peace officers taking away the authority to issue warrants. As Director of the Department of Highways, Mr. Wicks has upheld the previous administrator's decision not to allow peace officers to carry weapons.

Keith Olson, Executive Director, Montana Logging Association, testified that many of the GVW Officers came in and testified that the reason they wanted to carry firearms was not because of the trucking industry but because their lives were endangered. At that time it was suggested that the best way to take them out of a life threatening situation would be to reclassify them as public servants instead of peace officers.

Ben Havdahl, Montana Motor Carriers Association, testified that Montana Motor Carrier Association strides on the policy for enforcement of size and weight laws and regulations-- that the truck combination operating on Montana Highways must comply with legal limits and length in order to maintain our highway system to minimize wear and tear on the highways. Under Senate Bill 366, it clearly sets out the scope of GVW employees to affectively enforce these laws.

Mr. Havdahl stated that millions of dollars have been committed by the legislature for capital improvements to purchase portable scales at different locations for the state in order for GVW Officers to enforce the weight laws. We think the effort has been effective eliminating illegal overweight trucks on the road, however, we still have a long way to go.

OPPONENTS: Tom Schneider, Montana Public Employees Benefit Association opposed Senate Bill 366. Mr. Schneider testified that there has been a 366 degree turn. We had a good functional organization who has concerns about safety of their employees and now we simply forget all about their safety. Senate Bill 106 simply requested GVW Officers be allowed to carry weapons for safety, now we have completely gone the other direction and said: "We are not only going to give you guns, but we are simply not going to let you do your job that you have been hired to do."

Mr. Schneider stated that we have hundreds of citizens in this state who are legally licensed to carry concealed firearms who have never been or had any formal training at the Montana Law Enforcement Academy in Bozeman. No one seems concerned about those citizens who have not been trained but they are concerned about GVW Officers who have undergone extensive training in order to carry firearms. It is hard to understand this type of logic and yet they worry about a GVW Officer having logic.

The decision has been made to change the entire program to do away with the area of arrest and the issuance of warrants; there will be an added burden on the justice system when the GVW Officers can no longer issue warrants of arrest.

Paul Buckley, Department of Highways, GVW Officer, testified that public servants have no power of arrest which he felt was an unworkable situation. We have introduced a bill that is totally aggressive.

Senator Mike Halligan, Senate District No. 29, testified that he was reluctant to testify, but he felt that he did see a problem with the Peace Officers Association. He felt that Senator Meyer's intention of introducing Senate Bill 366 was honorable but he had a great deal of concern about it. He stated that the sheriffs already oppose Senate Bill 366 for they will not issue warrants. Senator Halligan stated he could not understand how anyone is going to have someone from the law enforcement to serve these warrants in order to make this program work. GVW Officers will not have the arrest authority at all; they are going to have to detain a person

or persons until either a highway patrolman or another law enforcement officer can answer the call. There are less than 25 highway patrol on the highways and these people are not going to make any arrests and still issue warrants; therefore, the arrests will not be made.

Dolan Duffy, Employee, Department of Highways, testified that he received an order from the justice of peace to all weight stations in the Missoula area that without the authority to issue citations it is going to be difficult to receive the necessary help from the justice of peace courts and other law enforcements. (See Exhibit I)

QUESTIONS FROM THE COMMITTEE: Senator Stimatz noted his concerns as to Senate Bill 366 if there could be a possibility that it would ruin the working operations of the GVW Office and would it cause any loss of revenue for the state of Montana. Senator Lybeck stated and questioned his concerns about the morale of the GVW Officers every time the Department of Highways makes a policy change. The committee held a lengthy discussion as to the reaction of the justice of peace and the sheriff's departments in collecting the money for the issue of warrants and notices to appear.

Mr. Monroe stated that he felt the Department of Highways will receive the co-operation from the Highway Patrol and the Justice of Peace in collecting the fines for it was their job to uphold the law.

The committee discussed about the truckers who are no longer stopping at the weight stations based upon the decision made by the legislature and Senate Bill 106. "The word is out and the trucking industry is reacting to it."

Mr. Wicks was asked if Senate Bill 366 would affect the wages of the employees and their benefits. He responded that there would be no problem. Mr. Schneider was concerned about the wages and benefits that the GVW Officers were receiving for it was not the Department of Highways that had the final decision as regards to wages, but the Department of Administration. Basically, all wages and reclassifications came from the Department of Administration and changes are based upon the decision by the department.

Jim Beck, Attorney for the Department, stated that a citation and notice to appear are the same thing. Instead of the GVW Officers issuing warrants of arrest they would be issuing notice to appear, which all they do is write out the notice to appear, hand it to the person or persons they are issuing it to and the copy is sent to the court for further legal action; it is then turned over to a law justice court where they in turn make service on the person who was issued the original citations.

Senator Farrell asked Senator Halligan if other states require GVW Officers to post a bond when issuing citations and Senator Halligan responded by saying that he was not aware of any other states requiring truckers to post bond.

The hearing on Senate Bill 366 was closed.

CONSIDERATION ON SENATE BILL 369: Senator Tveit, Senate District No. 11, sponsor of the bill, testified that Senate Bill 369 would require the railroad crossings signs have reflectorized strips on the back sides of the crossbuck blades and on the post. The railroad company shall install and maintain reflectorized strips on the back sides of crossbuck blades and on the lower half of the post on all crossing signs which would be effective on passage and approval of Senate Bill 369.

PROPOSERS: Mary Nielsen, WIFE, testified that WIFE, Women Involved in Farm Economics supports Senate Bill 369, for they are concerned with safety issues and it appeared that the legislature would allow the present caboose law to be repealed; we urged that reflectorize material be installed on both sides of the railroad crossing signs as a safety measure. (See Exhibit II)

OPPOSERS: There were none.

QUESTIONS FROM THE COMMITTEE: The committee questioned Senator Tveit as to the caboose bill that was killed on the Senate floor. Senator Tveit stated that Senate Bill 366 had nothing to do with the caboose bill.

DISPOSITION ON SENATE BILL 369: It was moved and seconded that the amendments to Senate Bill 369 BE ADOPTED. Motion carried.

A motion was made and seconded that Senate Bill 369 DO PASS AS AMENDED.

DISPOSITION ON SENATE BILL 366: Senator Farrell moved that the amendments to Senate Bill 366 BE ADOPTED, but not without an explanation to the committee that he felt the truckers were being "unjustly harassed."

A substitute motion that Senate Bill 366 DO NOT PASS. Senator Stimatz stated if we pass Senate Bill 366 we will be opening a real can of worms and we will find ourselves in the same position we were with Senate Bill 106. A roll call vote was called; the vote being six to four for Senate Bill 366 to DO NOT PASS AS AMENDED.

ADJOURNMENT: The meeting was adjourned.



Senator Larry Tveit

ROLL CALL

HIGHWAYS & TRANSPORTATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 7-14-87

NAME	PRESENT	ABSENT	EXCUSED
Chairman: Larry Tveit	✓		
Vice Chairman: Lawrence Stimatz	✓		
Senator Hubert J. Abrams	✓		
Senator William Farrell	✓		
Senator Tom Hager		✓	
Senator Sam Hofman	✓		
Senator Ray Lybeck	✓		
Senator Darryl Meyer	✓		
Senator Cecil Weeding	✓		
Senator Bob Williams	✓		

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE HIGHWAYS & TRANSPORTATION

Date _____ Bill No. _____ Time _____

SB 311
3/11/87

not a member

NAME	YES	NO
Chairman: Larry Tveit	✓	
Vice Chairman: Lawrence Stimatz	✓	
Senator Hubert J. Abrams	✓	
Senator William Farrell		✓
Senator Tom Hager		
Senator Sam Hofman	✓	
Senator Ray Lybeck	✓	
Senator Darryl Meyer		✓
Senator Cecil Weeding	✓	
Senator Bob Williams		✓

Secretary _____

Chairman _____

Motion: _____

MISSOULA COUNTY

DAVID K. CLARK
DEPARTMENT NO. 1
OFFICE OF THE PEACE
MISSOULA COUNTY SHERIFFS
GENERAL INVESTIGATIVE

STATE NUMBER

COURT NO. _____

DATE _____

FILE NO. _____

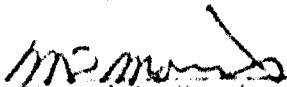
August 30, 1985

TO: All Weigh Stations
RE: Bond Taking on CVW Citations

This is notification to all weigh stations that bond (in cash only) must accompany all citations issued to out-of-county (Missoula) residents.



David K. Clark



Michael D. Morris

Witnesses Involved in Farm Economics

Before the Senate committee on Highways and Transportation
Bill No. _____ Feb. 21, 1987

I am Mary Nielsen, transportation chairman for WIFE. I regret I am unable to be present for this hearing, but thank you for allowing WIFE's lobbyist to present our views on this bill. We are happy to support it.

WIFE has always been concerned with safety issues, and when it appeared likely that the legislature would allow the present caboose law to be repealed, we urged that reflective material be installed on both sides of the railroad crossing signs, as a safety measure.

Even though cabooses are still required by law to be on the trains, it appears that the Burlington Northern railroad is going to contest the law in the courts, and we are still urging that the railroads in the state be required to install the reflective material on the signs.

The benefits are obvious to anyone who has driven this state at night. Those of us who are familiar with our rural roads tend to drive automatically, and seeing the reflective signs would be helpful. On the other hand, those who are unfamiliar with the road would also be alerted.

If only ONK sign were visible, drivers would immediately be aware that something was blocking the crossing, whether it was a moving, or a stationary freight train.

We know that the cost of flashing lights at crossings is prohibitive, and the suggestion of putting reflective material on the side of all freight cars is impractical- they don't all belong to the railroads in the state.

Montana simply cannot afford the installation costs of this program, while the railroads have maintenance crews that could install the material in the course of their regular duties.

The legislature has already allowed the railroads to reduce their costs in the state by allowing them to remove many station agents. If the caboose issue is taken to court, it will mean more legal expenses for our state in defense of the law- and it seems to us that the least that the railroads can do is to spend this relatively small amount to give a measure of safety to the drivers that have to use their crossings after dark!

Mary W. Nielsen

STANDING COMMITTEE REPORT

February 21

87

19.....

MR. PRESIDENT

We, your committee on..... **HIGHWAYS & TRANSPORTATION**.....

having had under consideration..... **SENATE BILL**..... No. **369**

first reading copy (white)
color

REQUIRING REFLECTORIZED STRIPS ON RAILROAD CROSSING SIGNS

Respectfully report as follows: That..... **SENATE BILL**..... No. **369**

1. Title, line 7
Following: line 6
Insert: "PUBLIC"
2. Page 1, line 13
Strike: "1 year"
Insert: "2 years"
3. Page 1, line 16
Following: "all"
Insert: "public"
4. Page 1, line 18
Following: "other"
Insert: "public"
5. Page 1, line 20
Following: "the"
Insert: "public"

AND AS AMENDED

~~DO-RASS~~

~~DO-RASS~~

..... **SENATOR TVEIT**

Chairman.

STANDING COMMITTEE REPORT

February 21 1987

MR. PRESIDENT

HIGHWAYS & TRANSPORTATION

We, your committee on.....

SENATE BILL

366

having had under consideration..... No.....

first reading copy (white)
color

GWV OFFICER'S STATUS CHANGED FROM PEACE OFFICER TO PUBLIC SERVANT

SENATE BILL

366

Respectfully report as follows: That..... No.....

1. Title, line 11
Following: "SECTIONS"
Insert: "45-5-202," 46-6-101,"
2. Page 1, line 21.
Following: line 20
Insert: Section 2. Section 46-6-101, MCA, is amended to read: "46-6-101. Definitions. (1) An "arrest" is taking a person into custody in the manner authorized by law.

(2) A "warrant of arrest" is a written order from a court directed to a peace officer or to some other person specifically named commanding him to arrest a person. This term includes the original warrant of arrest or a copy certified by the issuing court.

(3) A "summons" is a written order issued by the court which commands a person to appear before a court at a stated time and place.

(4) A "notice to appear" is a written direction issued by a peace officer or an employee of the department of highways appointed under 61-12-201 that a person appear before a court at a stated time and place to answer an offense set forth therein."
3. Page 5, line 20
Following: "61-10-233"
Strike: "."
Insert: "; and
(j) chapter 12, Title 60."

.....
Chairman.

4. Page 7, line 4.

Following: line 3

Insert: "Section 10. Section 45-5-202, MCA, is amended to read: "45-5-202. Aggravated assault-- felony assault. (1) A person commits the offense of aggravated assault if he purposely or knowingly causes serious bodily injury to another.

(2) A person commits the offense of felony assault if he purposely or knowingly causes:

- (a) bodily injury to another with a weapon;
- (b) reasonable apprehension of serious bodily injury in another by use of a weapon; or
- (c) bodily injury to a peace officer, or an employee of the department of highways appointed under 61-12-201, or a person who is responsible for the care or custody of a prisoner.

(3) A person convicted of aggravated assault shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided in 46-13-222. A person convicted of felony assault shall be imprisoned in the state prison for a term not to exceed 10 years or be fined not more than \$50,000, or both."

NEW SECTION. Section 11. No change in duties, responsibilities, grade levels. Nothing in this act may be construed by the department of administration or the department of highways to effect a change in duties and responsibilities for the purpose of lessening the grade level of an employee holding an appointment under 61-12-201 on the effective date of this act."

Renumber: subsequent sections

AND AS AMENDED
DO NOT PASS

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
THOMAS BUCKLEY		366		X
CECELIA A. BUCKLEY	CONCERNED CITIZEN	366		X
Dolan E. Duffy		366		X
R. Shannon		366		X
Bill Wertman		366		X
Heide J.	DOH	366		
Jan Schmitt	MPEA	366		X
Ben Huddell	Motor and Motor Carriers	366	X	
Kay Nrenberg	WIFE	369	X	
KEITH CLSON	MT. Logging Assn	366	✓	
JESSE Munro	MDOH	366	✓	
Gary WICKS	MDOH	366	✓	

(Please leave prepared statement with Secretary)