

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on January 26, 1989, at  
8:05 a.m.

#### ROLL CALL

Members Present: All members were present with the exception of:

Members Excused: Rep. McDonough

Members Absent: None.

Staff Present: Julie Emge, Secretary  
John MacMaster, Legislative Council

Announcements/Discussion: None.

#### HEARING ON HOUSE BILL 97

#### Presentation and Opening Statement by Sponsor:

Rep. Tom Kilpatrick, House District 85 stated that it was to his understanding that when the bill allowing Justice's of the Peace to obtain temporary restraining orders, thought they put in municipalities as well as J.P.'s. They figured, therefore, the bill takes care of all local government courts; but the city courts do not have power to grant the temporary restraining orders. They have the same requirements and the same licensing, yet the local judges do not have temporary restraining orders.

#### Testifying Proponents and Who They Represent:

Wally Jewell, Montana Magistrates Association  
Brenda Nordlund, Montana Women's Lobby  
Megan Hill, Montana Catholic Conference

#### Proponent Testimony:

Wally Jewell submitted before the Committee a written testimony voicing his support of HB 97 (EXHIBIT 1).

Presenting before the Committee, Brenda Nordlund and Megan Hill presented written testimony expressing their support of HB 97 (EXHIBITS 2 and 3).

#### Testifying Opponents and Who They Represent:

Shelly Laine, City of Helena

Opponent Testimony:

Shelly Laine commented that the city court is presently overloaded with work. Extending their jurisdiction to include the issuance of temporary restraining orders would only compound the problem. Also, with limited revenues many cities are not in a position to increase city court staffing and the application for filing temporary restraining orders is lengthy and time consuming. Currently, there has not been a system established to determine whether or not an individual has already attempted to obtain a temporary restraining order in another court and whether or not it was granted or denied. This could create a potential problem of duplication.

Questions From Committee Members: None

Closing by Sponsor: Rep. Kilpatrick commented that they need to keep in mind the welfare people involved. He realizes that the workload will be increased; however, when domestic abuse and the loss of life is involved it is extremely important to allow them to get a temporary restraining order when it is necessary.

## DISPOSITION OF HOUSE BILL 97

Motion: Rep. Addy made a DO PASS motion, seconded by Rep. Nelson.

Discussion: No discussion on motion.

Amendments, Discussion, and Votes: Rep. Wyatt offered to amend Page 1, Line 8, Following 3-10-301, Strike comma, Insert and. Motion seconded by Rep. Darko. Motion CARRIED.

Recommendation and Vote: Rep. Darko made a DO PASS AS AMENDED motion, seconded by Rep. Aafedt and a vote was taken. HB 97 CARRIED AS AMENDED with a unanimous vote.

## HEARING ON HOUSE BILL 147

Presentation and Opening Statement by Sponsor:

Rep. Tim Whalen, House District 93 stated that HB 147 is a bill that makes a modification to the Uniform Probate Code as it has been adopted in Montana. There was a Supreme Court decision in which there was a dispute between the parents that were no longer living together with regard to who was going to be appointed in charge of their sons estate. This bill basically gives a preference to the custodial parent, with hope that it will eliminate disputes with regard to estates where the parents are divorced.

Testifying Proponents and Who They Represent:

None.

Proponent Testimony:

None.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: None.

Closing by Sponsor: Rep. Whalen closed.

DISPOSITION OF HOUSE BILL 147

Motion: Rep. Darko made a DO PASS motion, seconded by Rep. Gould.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken on HB 147 DO PASS motion and CARRIED unanimously.

HEARING ON HOUSE BILL 260

Presentation and Opening Statement by Sponsor:

Rep. Robert Clark, House District 31 stated that HB 260 is a bill that will clear up a technicality that is in our current driving license law pertaining to people driving while their privilege to do so is suspended or revoked. The law currently states on Line 16, at a time when his privileged to do so is suspended or revoked shall be guilty of a misdemeanor. It does not mention any other state. This wording changes it to simply say in this state, or any other state. On Line 24 it covers driving a vehicle while a person's license or commercial operator's endorsement was suspended or revoked, and extend the period of suspension or revocation for an additional like period.

Testifying Proponents and Who They Represent:

Peter Funk, Assistant Attorney General, Dept. of Justice

Proponent Testimony:

Peter Funk commented that this bill is really a clarification of the existing offense of driving while a person's license is suspended or revoked. Mr. Funk stated that over the years the Dept. of Justice has had numerous requests for various county attorneys to do this. They feel that their ability to prosecute someone whose license is suspended by another state is somewhat in doubt under the existing statutory language. The Dept. of Justice has always advised local prosecutors to proceed against someone whose license is suspended in another state under the existing statutory language, but they have had a great number of county attorneys state that they are uncomfortable with doing that unless the statute specifically authorizes or specifically refers to a person whose license is suspended, other than in Montana. Additionally, there is an existing statutory provision in Title 61 which authorizes the Dept. of Justice and the Motor Vehicle Division to suspend or revoke an out of state person's license. By inserting this language into the bill it would allow for the Dept. of Justice to take that type of action against a non-resident.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Boharski questioned Mr. Funk if it is possible to get a driver's license in one state if it has been suspended in another state? Mr. Funk replied that if the computer tracking systems are working as they should and if the state that has suspended the license has dealt with that situation properly and put it in the national system; no, it should not be possible.

Closing by Sponsor: Rep. Clark reiterating Mr. Funk, stated that the difficulty is the county attorneys having a problem with bringing formal charges on a situation where a license has been suspended or revoked in another state because it wasn't specifically spelled out in Montana law.

DISPOSITION OF HOUSE BILL 260

Motion: A DO PASS motion was made by Rep. Daily, seconded by Rep. Brooke.

Discussion: There was no discussion on the motion.

Amendments, Discussion, and Votes: Rep. Brooke moved to amend Page 1, Line 21, Following \$500.00, Strike comma or both, seconded by Rep. Darko. Amendment CARRIED with Rep.'s Eudaily, Hannah, Daily, and Boharski voting No.

Recommendation and Vote: Rep. Gould moved DO PASS AS AMENDED, seconded by Rep. Brooke. Motion CARRIED with a unanimous vote. Rep. Strizich moved that the Committee place HB 260 on the Consent Calendar with a unanimous vote by the Committee. HB 260 DO PASS AS AMENDED and be placed on the Consent Calendar.

### HEARING ON HOUSE BILL 231

#### Presentation and Opening Statement by Sponsor:

Rep. Dave Brown, House District 72 stated to the Committee that there are some changes that need to be made with HB 231 as well as substantive amendments. Rep. Brown commented that motorcycling and motorcyclists are becoming more and more popular. There are more bikes on the road and there are more people driving. Motorcyclists are often at a severe disadvantage with the rest of the traffic on the highways and those people in larger vehicles often take a dim view of motorcyclists either behind or ahead of them. This creates a very real hazard, especially for the inexperienced and new motorcyclist. Mr. Brown stated that what this bill attempts to do is set up a motorcycle education and instruction program to give beginners an opportunity to get an edge on experience.

#### Testifying Proponents and Who They Represent:

Dal Smilie, Secretary, American Motorcyclists Association  
Duane Tooley, Chief of Drivers Services, Motor Vehicle Division  
Michael Sherwood, Montana Trial Lawyers Association  
Curt Hahn, Curriculum Specialist Office Public Instruction  
Jim Manion, Montana American Automobile Association  
Rep. Dennis Iverson  
Patricia Wherley, ABATE of Montana

#### Proponent Testimony:

Dal Smilie stated that in motorcycling, approximately 50% of death and injuries come very early in a motorcyclists experience. Usually the person is normally very young and it is their first time operating the machine. This is a dangerous period and some basic training in that area, like drivers training is useful. Several years ago, the motorcycle industry formed an organization called the Motorcycle Safety Foundation that they funded. That organization has an organized criteria as a nationally recognized instructor certification program for people who teach motorcycle safety training. It is the only organization that insurance companies recognize. Mr. Smilie

stated that there are, however, large budget concerns. This program, on the other hand, is rider funded. It will not cost the State anything. Each time a rider relicenses his street going motorcycle he will pay an additional \$5.00 for this program. Mr. Smilie continued that the Office of Public Instruction (OPI), who will be implementing this plan, initially did not know exactly what the cost would be. He stated that OPI can support a reduction of that fee to about \$2.50 - \$3.00 and that is one way to provide for the funding. OPI believes; however, that this program can be totally funded without charging the riders a fee of any kind. Mr. Smilie commented that this is a responsible and positive effort by the motorcycling community to do something for themselves and submitted testimony in strong support of HB 231 (EXHIBIT 5).

Duane Tooley stated that he supports the concept of motorcycle training and understands there is a great need for it. He stated that the bill, as it is before the Committee, does have some problems. Specifically, his concerns are with Sections 9, 10, and 11. The fee of \$30.00 for the motorcycle endorsement if you have been convicted of not having one previously, sounds at first like a good idea. However, they would be unable to communicate that information to the fee collecting person. In other words, the county treasurer in a smaller county which is not automated would not know what fee to charge an individual for a motorcycle endorsement. Mr. Tooley stated that there would be no way to find out unless they called the office in Helena and he does not suggest that as a practical way to approach the problem. In addition, Mr. Tooley expressed that his biggest concern is if they should license someone improperly. A person who is denied a license has legal recourse, they can have an administrative hearing or go to court. Whereas, someone who gets a license who should not have had one in the first place, can come back to haunt them if someone else is injured and can sue them or the State.

Michael Sherwood stated that the reason the Montana Trial Lawyers Association supports this bill is because they represent they people who are hurt in accidents. Motorcycle accidents are particularly severe accidents and usually no matter what they can or can't do for their clients, they would have been far better off if they'd never been in the accident in the first place.

Curt Hahn commented that motorcycle driving education is an important component of a total traffic education program. The Office of Public Instruction has always encouraged schools and others to provide this instruction, but has very limited staff and funds to give assistance to the training of instructors. Mr. Hahn stated that Montana needs to train motorcycle drivers. In 1987, the Montana Highway Patrol's annual report showed that there were 391 motorcycle accidents that resulted in 26 deaths and 408 injuries. A

recent motorcycle accident cause study, available through the National Technical Information Service, showed that in single vehicle accidents, motorcycle rider error was present as the accident precipitating factor in about 2/3 of the cases. Additionally, motorcycle riders between the ages of 16 and 24 are significantly over represented in accidents. Motorcycle riders involved in accidents are essentially without training. Mr. Hahn stated that over half of the accidents that are involved with motorcycles, the rider has had less than 5 months experience with the motorcycle itself. To strengthen the bill, he suggested to amend Section 4, Page 4, Lines 8-9. Strike "not to exceed \$30.00 a student". He feels that since they would be the administering agency, keeping that wording in the bill could restrict their ability to conduct workshops. Secondly, Section 4, Page 4, Line 13, Strike "qualified persons". Mr. Hahn commented that since the focus of this program is outside of the formal education system, the word "educators" is probably not appropriate. In addition to these amendments, he also suggested that Section 14, Page 17, last line, Strike "1991", Insert 1990. He feels they could begin doing the workshops throughout the state by July of 1990. As a final amendment, Mr. Hahn asked the Committee to amend Page 7, Line 4 to keep the distribution at the 36% level.

Jim Manion speaking on behalf of the Montana AAA offices as well as expressing support from representatives of the Motorcycle Industry Counsel and the Motorcycle Safety Foundation voiced support of HB 231. He stated that this bill is a very positive effort on behalf of the motorcyclist to improve the safety effort amongst that group. Mr. Manion commented that he is in agreement with Mr. Tooley as to the subject of waiving the testing requirement if you pass this particular course.

Rep. Dennis Iverson requested to be listed on record in favor of HB 231 as was conveyed to the Committee by Rep. Dave Brown.

Patricia Wherley presented before the Committee written testimony expressing her support of HB 231 (EXHIBIT 6), accompanied by supportive letters from Richard E. Field, MSF Safety Instructor and Eric Lundquist, Legislative Affairs Specialist (EXHIBITS 7 and 8).

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Eudaily questioned Mr. Hahn as to why OPI is the administering agency? Mr. Hahn responded that it is because traffic education is currently

a component of OPI. He stated that he does not think that it is inappropriate for OPI to handle a program outside of the formal education program, whether it be adult education or other. Rep. Eudaily then questioned as to the legal status of OPI if they are not using educators that are certified, but are qualified. What would happen if they selected a person they thought qualified and turns out not to be? What would be the legal ramifications? Mr. Hahn stated that he thinks everyone is at risk, liability wise. If people are not properly trained to do the job that they are asked to do they would see that those people met the national norm or criteria for instructors.

Rep. Hannah questioned Mr. Smilie as to what the procedure was for the potential of no program being available when yet they are requiring that training take place with certain fines and penalties. Mr. Smilie stated that currently people can a motorcycle endorsement without taking any training, and that won't change. Also, it is a voluntary training program and that won't change either. What is offered here is a training program along with a fiscal note. As Mr. Hahn indicated, they would try to do a hundred classes a year. Should the money end, they won't be able to do those classes. Rep. Hannah agreed with Mr. Smilie as to the training classes being voluntary; however, the fee is not. He stated that he would be more comfortable if they had a provision for some kind of a carry-over fund. Mr. Smilie commented that every motorcycle registration falls on an annual bases, January 1, rather than automobiles that are spaced throughout the year. Additionally, some of the people that pay this amount mandatorily may not want to take this course as they feel it will not do them any good. The program is \$5.00 or less, most likely \$2.50 or \$3.00. That is not a lot of money to ask for.

Rep. Eudaily questioned a comment that was made by someone regarding trail bikes. He asked if the bill needed a definition of motorcycles so that they would know what they are talking about or if they are going to try and include drivers of trail bikes as well? Rep. Brown stated that the bill is presently written only for those bikes that are registered for road use.

Rep. Eudaily, referring to the effective date in Sections 5 through 8 becoming effective July 1, 1989 stating that under Section 6 it shows that this money is statutorily appropriated. Is this being included in the budget at this time? Mr. Hahn responded that presently it is not. It provides the authority to spend the money, but it is not general fund money. It is just a statutory appropriation allowing them to spend it. Mr. Hahn stated that should this bill pass, the Appropriations Committee and OPI would have to make a note of that as they would if they were receiving federal funds.



Closing by Sponsor: Rep. Brown guaranteed the Committee that this bill wouldn't go into executive action until it was cleaned up and completely ready to go, section by section.

ADJOURNMENT

Adjournment At: 9:30 a.m.

  
\_\_\_\_\_  
REP. DAVE BROWN, Chairman

DB/je

2208.MIN

## DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date JAN. 26, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH			X
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

STANDING COMMITTEE REPORT

January 26, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that HOUSE BILL 97 (first reading copy -- white) do pass as amended .

Signed: \_\_\_\_\_  
Kelly Addy, Vice-Chairman

And, that such amendments read:

1. Title, line 8.  
Following: "3-10-301"  
Strike: ", "  
Insert: "and"

STANDING COMMITTEE REPORT

January 26, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that HOUSE  
BILL 147 (first reading copy -- white) do pass .

Signed: \_\_\_\_\_  
Kelly Addy, Vice-Chairman

STANDING COMMITTEE REPORT

January 26, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that HOUSE BILL 260 (first reading copy -- white) do pass as amended and that it be placed on the CONSENT CALENDAR.

Signed: \_\_\_\_\_  
Kelly Addy, Vice-Chairman

And, that such amendments read:

1. Page 1, line 21.  
Strike: ", or both"

# Montana Magistrates Association

26 January 1989

Testimony offered in support of HB97, a bill for an act entitled: "An act to grant City Courts jurisdiction to issue temporary restraining orders when a petitioner alleges physical abuse, harm, or bodily injury by a family member or household member."

Given by Wallace A. Jewell on behalf of the Montana Magistrates Association representing the judges of courts of limited jurisdiction of Montana.

The Montana Magistrates Association is in support of HB97 because not only would it decrease the current flow of paperwork through the Justice Courts, it would also facilitate the filing of temporary restraining orders by alleged victims of domestic abuse.

Under current law the only limited jurisdiction judges with the authority to issue a temporary restraining order are justices of the peace and municipal court judges. If an alleged victim of domestic abuse then lives in a city with a City Court but not a Justice Court or Municipal Court, that victim must drive to the nearest town with such a court.

This does not make any sense when City Court judges have basically the same jurisdictional authority except for the issuance of temporary restraining orders (see 3-11-102, 3-11-103, 3-10-301, and 3-10-303, MCA). City Court judges also must undergo the same training and education and every four years pass the same certification test (see 3-11-202 and 3-11-204, MCA).

We urge you to support this legislation not only to reduce the amount of paperwork in Justice Courts but also to make it easier for alleged victims of domestic abuse to obtain relief under the law.

*Wallace A. Jewell*

# MONTANA WOMEN'S LOBBYIST

FUND

EXHIBIT 2

DATE Jan. 26, 1989

P.O. Box 1099

Helena, MT 59624

406/449-7911 HB 97-Kilpatrick

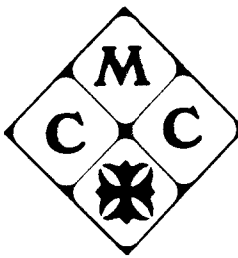
Mr. Chairman, members of the committee,

My name is Brenda Nordlund and I appear on behalf of Montana Women's Lobby. We support HB 97 and applaud Representative Kilpatrick's efforts to extend the jurisdiction of courts of limited jurisdiction to issuance of self-help TROs.

When domestic violence strikes a family, the paramount concern of the victims is for their immediate safety and the safety of their loved ones. The self-help TRO was designed to help ensure their safety, without the necessity of waiting hours or days for assistance from attorneys or others to obtain judicial relief and protection.

Unfortunately, for women and children who did not live in the immediate vicinity of a district court or justice court and who had to drive to neighboring towns to seek relief, the process became more involved and time delays more likely. Because isolation of family members and the control oftentimes exercised by batterers in the family context, a sojourn to a neighboring community may be difficult to arrange. The more access victims of domestic violence have to courts, including city courts perhaps within their own communities, the better.

We urge a do pass recommendation from this community.



# Montana Catholic Conference

EXHIBIT 3

DATE Jan. 26, 1989

January 26, 1989

HB 97-Kilpatrick

## CHAIRMAN BROWN AND THE HOUSE JUDICIARY COMMITTEE

I am Megan Hill, representing the Montana Catholic Conference.

Because of the church's role in counseling abused spouses and their families, the Montana Catholic Conference would like to urge your support for HB 97.

The State of Montana is currently involved in domestic abuse cases through medicaid costs, court system hours, prisons, and group homes, etc. While many mental health care facilities provide shelters or safe houses to battered spouses, it is often necessary to legally restrain the abuser from the rest of the family. This bill would provide the city court a way to do just that, and help to stop the abuse before it happens.

We urge you to support HB 97.





# Montana Magistrates Association

EXHIBIT 4  
DATE Jan. 26, 1989  
HB 260-Clark

26 January 1989

Testimony offered in opposition to HB260, a bill for an act entitled: "An act to provide that a person driving a motor vehicle or commercial motor vehicle in this state while his license is suspended or revoked in any state is guilty of a misdemeanor."

Given by Wallace A. Jewell on behalf of the Montana Magistrates Association representing the judges of courts of limited jurisdiction of Montana.

The Montana Magistrates Association is in opposition to this legislation because we feel that there may be some problems with due process involved with it. What if another state does not notify the person involved that their license is suspended and the person leaves that other state and comes to Montana? Are we then responsible for the notification of that individual? Are we then duty bound to impose sanctions against that individual for operating a motor vehicle when he did not know his operating privileges were suspended? Are we then enforcing the laws of that other state?

The Montana Magistrates Association urges you to recommend that this legislation do not pass.

*Wallace A. Jewell*

January 26, 1989

EXHIBIT 5

House Judiciary Committee  
Capitol Station  
Helena, MT 59620

DATE Jan. 26, 1989

HB 231-D. Brown

TESTIMONY IN SUPPORT OF HB 231 by Dal Smilie

The Montana Legislature and various departments of state government wrestle with methods of improving highway traffic safety. Montana's road riding motorcycling community have teamed together with the Office of Public Instruction to design a voluntary rider funded motorcycle safety training program. Thirty other states have adopted similar legislation.

Motorcyclists have long known that the greatest percentage of injuries and death occur with beginning riders. Many of the injured have not even qualified for the motorcycle endorsement on their drivers license.

The Motorcycle Safety Foundation was formed to address this safety problem. It formulated a curriculum and instructor certification procedure. The MSF certification is the only one recognized by insurance companies.

Unfortunately the liability insurance crisis caused difficulties in providing MSF training to many Montanans. Consequently several groups saw the need for a state administered but rider funded program to insure that this necessary training was available. Training prevents accidents.

Self funding in Montana has been long in coming because the vehicle license fees are so much higher than elsewhere. Trail riders have proposed a user fee of their own in HB 165. Some of them worry that they will have to pay two user fees. In this age of user fees people who benefit from several programs may be expected to help finance both. One option available to lessen the fee burden is to reduce the fee and supplement the loss with federal 402A funds which are available for such safety programs. The Justice department controls 402A funds.

The safety program will cost the state nothing. If funds run out so does the program. Even if the fund runs out riders will benefit because many new MSF instructors will have been certified and will be able to provide traing to those who need it.

The bill has incentives to force new riders to seek motorcycle endorsements for their drivers licenses. Statistics show that the passage of even that limited practical test reduces the liklihood of injury.

The committee should not alter the rider funded aspects of this bill because a lack of funds will cripple the program. This is a good bill supported by the riders own dollars. Motorcyclists should be given the opportunity to make safer their chosen means of transportation.

DATE JAN. 26, 1989

HB 231-D. Brown

Motorcycle Rider Course(MRC) is a program designed for the beginning motorcyclist, to learn how to operate their motorcycles safely and efficiently, these classes are taught by certified motorcyclist instructors thru the Motorcycle Safety Foundation.

These classes are 20 hrs.- 8 hrs of classroom instruction on - motorcycle controls, buying insurance, proper bike selection and much more. And 12 hrs. of actual practice on a motorcycle- from how to get on and off, proper braking-to how-to ride over obstacles and making emergency stops.

MSF also offers an Experienced Rider Course(ERC). It is designed for motorcyclists who have been riding for at least one year. The ERC develops the riders street strategies, advanced turning, braking, and evasive skills. It is an 8 hr course- 1/2 classroom instruction and 1/2 actual riding experience.

Why is training needed? Although some people will say it's easy to learn to ride a motorcycle and it can be learned quickly, developing the skills and techniques to ride successfully and safely is another matter. To be in control of a motorcycle and to ride it safely on public streets and highways requires practice and proper instruction. Nearly 20 % of all motorcycle accidents happen to riders with less than six months riding experience and 30 % involve riders with less than one year's experience--regardless of age. This accident problem points out the need to learn to ride a motorcycle correctly. ~~In addition,~~ students can find out if they want to continue riding before they invest in a motorcycle.

Who are the target groups for motorcycle rider education?

Research has shown that few people (less than 10 %) have any formal training before they begin riding. Potentially anyone, whether he/she is just starting out in motorcycling or has been riding for several years, can benefit from a rider education program. However, motorcycle accident research at the University of Southern Calif. has shown that the age group most involved in accidents is between 17 and 26 (55%) *of new riders.*

ABATE of Montana is proposing this bill that would bring these Motorcycle Safety Programs to Montana. It is a self-funded program by the motorcyclists with an extra \$5.00 on each motorcycle registration. This money would then be used to promote and teach these classes with the cooperation of DPI. Over the past <sup>entire</sup> years the motorcycle registration in Montana has been from 35,455 to 52,211, this extra fee should generate from \$175,000 to \$200,000 a year, to support these programs.

1-26-89

ABATE of Montana= American Bikers Aiming Toward Education, a non-profit, incorporated organization with statewide membership of approx. 600.

MSF= Motorcycle Safety Foundation

AMA= American Motorcycle Association

DPI= Office of Public Instruction, Helena, MT.

ABATE of Montana has worked with Rep. Dave Brown of Butte to introduce a Motorcycle Safety Education Program bill. This is a self-funded program with an extra fee of \$5.00 on each motorcycle registration. It is a voluntary program, it will follow the course standards of MSF and would work with DPI to make the courses available.

The need for Motorcycle Safety Education becomes evident when one becomes aware of the number of motorcycles on the street and highways and thoughtfully analyzes motorcycle accident statistics. Although cyclists are of all ages, those most frequently involved as accident victims are young and inexperienced motorcycle riders. Sometimes they become involved in a collision on the first or second ride and frequently on a borrowed motorcycle. Studies of motorcycle accidents reveal that over half involve operators with less than two years experience; between a quarter and a third occur during the first six months. It is clear that the period of initial learning is by far the most dangerous than is equivalent time period in the case of automobile operation.

When motorcycle riders acquire the knowledge and skills for safe operation through a well-organized program of motorcycle safety education, rather than through trial and error learning on the highway, it is reasonable to expect that overall safety record of motorcycle operation will be substantially improved.

ABATE of Montana has been working with ABATE of North Dakota to help get this program organized. North Dakota has had a Motorcycle Safety Education Program for 10 years now. North Dakota is one of the safest riding states in the nation-greatly due to their Safety Programs. Using North Dakota's budget for 12 courses per training season- March 15th thru Oct. 31st- runs them approx. \$21,500, plus their cost for training 14 instructors in June ran them \$7,274.00.

Our proposed plan would generate approx. \$175,000. to \$200,000. a year. From 1980 to 1987 registration of motorcycles has been as low as 35,455 to a high of 52,211. Montana to date has 5 MSF certified instructors.

We feel that a Motorcycle Safety Education Program is the most responsible and effective way to reduce accidents and deaths in Montana. And we ask for your support. Thank you.

Jan. 26, 1989  
HB 231-D. Brown

January 24, 1989

HOUSE JUDICIARY COMMITTEE

Re: HB 231

Dear Committee Member

I am a Motorcycle Safety Foundation Certified Safety Instructor. Please Support HB 231, as it is a very real and viable solution for the riding safety of Montana's motorcyclists.

Through the support of the Office of Public Instruction's Curt Hahn, Traffic Safety Officer, a program was initiated to provide motorcycle safety instruction this past Fall. OPI contracted my services to provide motorcycle safety training to experienced riders, after being instrumental in enabling me to receive MSF Re-certification Training at Everett Community College, Everett, Washington in June of 1988. Originally, I completed MSF Instructor Certification training in Rapid City, South Dakota in June, 1985 (1988 training pamphlet attached).

Item #4 of the HURT STUDY (condensation attached) focuses attention on the primary cause of single vehicle motorcycle accidents, and reads: "IN THE SINGLE VEHICLE ACCIDENTS, MOTORCYCLE RIDER ERROR WAS PRESENT AS THE ACCIDENT PRECIPITATING FACTOR IN ABOUT TWO-THIRDS OF THE CASES, WITH THE TYPICAL ERROR BEING A SLIDE-OUT AND FALL DUE TO OVERBRAKING OR RUNNING WIDE ON A CURVE DUE TO EXCESS SPEED OR UNDER-CORNERING."

The Motorcycle Safety Foundation Rider Education Courses teach braking and turning skills, plus many other skills equally important to safe and prudent motorcycle operation. 30 States have adopted self funded programs for motorcycle safety training (attached).

Because of teaching commitments, I am unable to present testimony at the 8:00 a.m. Thursday, January 26, 1989 Committee Hearing. Please accept this letter and its attachments as my testimony supporting HB 231.

Sincerely,



Richard E. Field,  
MSF Safety Instructor  
137 Fairway Drive  
Helena, Montana 59601  
443-5739 home  
449-6514 business

# Findings from the Hurt Study

## Motorcycle Accident Cause Factors and Identification of Countermeasures

A motorcycle accident study offers you and your students a wealth of information about accidents and how to avoid them. The "Motorcycle Accident Cause Factors and Identification of Countermeasures," is a study conducted by the University of Southern California (USC). With funds from the National Highway Traffic Safety Administration, researcher Harry Hurt investigated almost every aspect of 900 motorcycle accidents in the Los Angeles area. Additionally, Hurt and his staff analyzed 3,600 motorcycle traffic accident reports in the same geographic area.

Reprinted here for your information and use are the findings.

The final report is several hundred pages. If you choose to have this document in your resource library, the order information is:

Motorcycle Accident Cause Factors and Identification of Countermeasures,  
Volume I: Technical Report, Hurt, H.H.,  
Ouellet, J.V. and Thom, D.R., Traffic  
Safety Center, University of Southern  
California, Los Angeles, California  
90007, Contract No. DOT HS-5-01160,  
January 1981 (Final Report)

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### "Motorcycle Accident Cause Factors and Identification of Countermeasures"

#### Findings

Throughout the accident and exposure data there are special observations which relate to accident and injury causation and characteristics of the motorcycle accidents studied.

These findings are summarized as follows:

1. Approximately three-fourths of these motorcycle accidents involved collision with another vehicle, which was most usually a passenger automobile.
2. Approximately one-fourth of these motorcycle accidents were single vehicle accidents involving the motorcycle colliding with the roadway or some fixed object in the environment.
3. Vehicle failure accounted for less than 3% of these motorcycle accidents, and most of those were single vehicle accidents where control was lost due to a puncture flat.
- \* 4. In the single vehicle accidents, motorcycle rider error was present as the accident precipitating factor in about two-thirds of the cases, with the typical error being a slide-out and fall due to overbraking or running wide on a curve due to excess speed or under-cornering.
5. Roadway defects (pavement ridges, potholes, etc.) were the accident cause in 2% of the accidents; animal involvement was 1% of the accidents.
6. In the multiple vehicle accidents, the driver of the other vehicle violated the motorcycle right-of-way and caused the accident in two-thirds of those accidents.
7. The failure of motorists to detect and recognize motorcycles in traffic is the predominant cause of motorcycle accidents. The driver of the other vehicle involved in collision with the motorcycle did not see the motorcycle before the collision, or did not see the motorcycle until too late to avoid the collision.

8. Deliberate hostile action by a motorist against a motorcycle rider is a rare accident cause.
9. The most frequent accident configuration is the motorcycle proceeding straight then the automobile makes a left turn in front of the oncoming motorcycle.
10. Intersections are the most likely place for the motorcycle accident, with the other vehicle violating the motorcycle right-of-way, and often violating traffic controls.
11. Weather is not a factor in 98% of motorcycle accidents.
12. Most motorcycle accidents involve a short trip associated with shopping, errands, friends, entertainment or recreation, and the accident is likely to happen in a very short time close to the trip origin.
13. The view of the motorcycle or the other vehicle involved in the accident is limited by glare or obstructed by other vehicles in almost half of the multiple vehicle accidents.
14. Conspicuity of the motorcycle is a critical factor in the multiple vehicle accidents, and accident involvement is significantly reduced by the use of motorcycle headlamps-on in daylight and the wearing of high visibility yellow, orange or bright red jackets.
15. Fuel system leaks and spills were present in 62% of the motorcycle accidents in the post-crash phase. This represents an undue hazard for fire.
16. The median pre-crash speed was 29.8 mph, and the median crash speed was 21.5 mph, and the one-in-a-thousand crash speed is approximately 86 mph.
17. The typical motorcycle pre-crash lines-of-sight to the traffic hazard portray no contribution of the limits of peripheral vision; more than three-fourths of all accident hazards are within 45° of either side of straight ahead.
18. Conspicuity of the motorcycle is most critical for the frontal surfaces of the motorcycle and rider.
19. Vehicle defects related to accident causation are rare and likely to be due to deficient or defective maintenance.
20. Motorcycle riders between the ages of 16 and 24 are significantly overrepresented in accidents; motorcycle riders between the ages of 30 and 50 are significantly underrepresented.
21. Although the majority of the accident-involved motorcycle riders are male (96%), the female motorcycles riders are significantly overrepresented in the accident data.
22. Craftsmen, laborers, and students comprise most of the accident-involved motorcycle riders but the professionals, sales workers, and craftsmen are underrepresented and the laborers, students, and unemployed are overrepresented in the accidents.
23. Motorcycle riders with previous recent traffic citations and accidents are overrepresented in the accident data.
24. The motorcycle riders involved in accidents are essentially without training; 92% were self-taught or learned from family or friends. Motorcycle rider training experience reduces accident involvement and is related to reduced injuries in the event of accidents.
25. More than half of the accident-involved motorcycle riders had less than 5 months experience on the accident motorcycle, although the total street riding experience was almost 3 years. Motorcycle riders with dirt bike experience are significantly underrepresented in the accident data.
26. Lack of attention to the driving task is a common factor for the motorcyclist in an accident.
27. Almost half of the fatal accidents show alcohol involvement.

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28. Motorcycle riders in these accidents showed significant collision avoidance problems. Most riders would overbrake and skid the rear wheel, and underbrake the front wheel greatly reducing collision avoidance deceleration. The ability to countersteer and swerve was essentially absent.
  29. The typical motorcycle accident allows the motorcyclist just less than 2 seconds to complete all collision avoidance action.
  30. Passenger-carrying motorcycles are not overrepresented in the accident area.
  31. The driver of the other vehicles involved in collision with the motorcycle are not distinguished from other accident populations except that the ages of 20 to 29, and beyond 65 are overrepresented. Also, these drivers are generally unfamiliar with motorcycles.
  32. The large displacement motorcycles are underrepresented in accidents but they are associated with higher injury severity when involved in accidents.
  33. Any effect of motorcycle color on accident involvement is not determinable from these data, but is expected to be insignificant because the frontal surfaces are most often presented to the other vehicle involved in the collision.
  34. Motorcycles equipped with fairings and windshields are underrepresented in accidents, most likely because of the contribution to conspicuity and the association with more experienced and trained riders.
  35. Motorcycle riders in these accidents were significantly without motorcycle license, without any license, or with license revoked.
  36. Motorcycle modifications such as those associated with the semi-chopper or cafe racer are definitely overrepresented in accidents.
  37. The likelihood of injury is extremely high in these motorcycle accidents: 98% of the multiple vehicle collisions and 96% of the single vehicle accidents resulted in some kind of injury to the motorcycle rider; 45% resulted in more than a minor injury.
  38. Half of the injuries to the somatic regions were to the ankle-foot, lower leg, knee, and thigh-upper leg.
  39. Crash bars are not an effective injury countermeasure; the reduction of injury to the ankle-foot is balanced by increase of injury to the thigh-upper leg, knee, and lower leg.
  40. The use of heavy boots, jacket, gloves, etc., is effective in preventing or reducing abrasions and lacerations, which are frequent but rarely severe injuries.
  41. Groin injuries were sustained by the motorcyclist in at least 13% of the accidents, which typified by multiple vehicle collision in frontal impact at higher than average speed.
  42. Injury severity increases with speed, alcohol involvement and motorcycle size.
  43. Seventy-three percent of the accident-involved motorcycle riders used no eye protection, and it is likely that the wind on the unprotected eyes contributed in impairment of vision which delayed hazard detection.
  44. Approximately 50% of the motorcycle riders in traffic were using safety helmets but only 40% of the accident-involved motorcycle riders were wearing helmets at the time of the accident.
  45. Voluntary safety helmet use by those accident-involved motorcycle riders was lowest for untrained, uneducated, young motorcycle riders on hot days and short trips.
  46. The most deadly injuries to the accident victims were injuries to the chest and head.
  47. The use of the safety helmet is the single critical factor in the prevention of reduction of head injury; the safety helmet which complies with FMVSS 218 is a significantly effective injury countermeasure.
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48. Safety helmet use caused no attenuation of critical traffic sounds, no limitation of precrash visual field, and no fatigue or loss of attention; no element of accident causation was related to helmet use.
  49. FMVSS 218 provides a high level of protection in traffic accidents, and needs modification only to increase coverage at the back of the head and demonstrate impact protection of the front of full facial coverage helmets, and insure all adult sizes for traffic use are covered by the standard.
  50. Helmeted riders and passengers showed significantly lower head and neck injury for all types of injury, at all levels of injury severity.
  51. The increased coverage of the full facial coverage helmet increases protection, and significantly reduces face injuries.
  52. There is not liability for neck injury by wearing a safety helmet; helmeted riders had less neck injuries than unhelmeted riders. Only four minor injuries were attributable to helmet use, and in each case the helmet prevented possible critical or fatal head injury.
  53. Sixty percent of the motorcyclists were not wearing safety helmets at the time of the accident. Of this group, 26% said they did not wear helmets because they were uncomfortable and inconvenient, and 53% simply had no expectation of accident involvement.
  54. Valid motorcycle exposure data can be obtained only from collection at the traffic site. Motor vehicle or driver license data presents information which is completely unrelated to actual use.
  55. Less than 10% of the motorcycle riders involved in these accidents had insurance of any kind to provide medical care or replace property.



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January 23, 1989

EXHIBIT 8

DATE Jan. 26, 1989

HB 231 Brown

The Honorable Dave Brown  
Chairman  
House Judiciary Committee  
Capitol Station  
Helena, MT 59620

Dear Representative Brown:

The American Motorcyclist Association is a national organization with 156,000 members. We write in support of House Bill 231, legislation you have co-sponsored. The bill would establish a voluntary motorcycle safety education program in Montana.

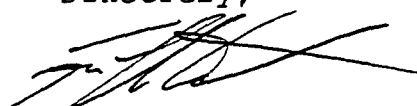
Our members engage in every facet of motorcycle use. They understandably have an interest in the promotion of safe motorcycling. We feel that such training programs are a vital component of every state's comprehensive safety plan.

The safety program described in HB-231 would be self-supporting and would not place a burden upon the state's general fund. It would also be designed along the lines of comprehensive programs that are now available and working well in other states.

The AMA is therefore committed to the establishment of such a motorcycle safety program. We offer any assistance that would be appropriate for the successful implementation of the program in Montana.

We are communicating our support of HB-231 with the other members of the House Judiciary Committee by regular mail. We respectfully urge all members of the committee to vote "FOR" HB-231.

Sincerely,



Eric Lundquist  
Legislative Affairs Specialist  
Government Relations

EL/kdb

bcc: Patricia Wherley

## VISITORS' REGISTER

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Shelly Laine	City of Helena		✓
Brenda Nordlund	MT Women's Lobby	✓	
Negan Hill	MT. Catholic Conf	✓	

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Gordon Derendorf	Helena	X	
Jim Morrison	Helena	X	
Synda Woodard	Missla,	✓	
ANDRE A Woodard	Missla	✓	
Doug Woodard	Missoula	X	
RICHARD ALDERSON	MISSOULA	X	
DEBRA McIntosh	MISSOULA	X	
Doug ABELIN	CUT BANK	X	
Linda Ellison	Bozeman	X	
Barbra Wheeler	Three Forks	X	
Douglas E. Bristow	Helena	X	
KEVIN J. J. J.	HELENA	X	
Richard A. Stine	Helena	X	
Brad Carson	Montana City	X	
Jeffrey J. J.	Helena	X	
Glenn H. J.	Helena	X	
Trane Tolley	Helena	X	
Connie Stine	Helena	X	

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TERENCE SNIRLEY

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Lori Danilson

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Mike Sherwood

MTLA

CS-33. Linda H. H.

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X ✓

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