

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By Chairman Stang, on March 14, 1989, at 3:40 p.m.

ROLL CALL

Members Present: All with exception of:

Members Excused: Rep. Harrington and Rep. Steppler

Members Absent: None

Staff Present: Paul Verdon, Researcher
Claudia Johnson, secretary

Announcements/Discussion: None

HEARING ON SENATE BILL 355

Presentation and Opening Statement by Sponsor:

Sen. Farrell, Senate District 31, opened by stating that his bill is comprised of three measures; 1) A cleanup measure on the commercial driver's license bill from last session the Federal Government and Dept. of Transportation had not finalized some of the sections of the rules and stated this bill brings Montana into compliance with those federal rules. Sen. Farrell stated at that time Montana had exempted farmers and the Federal Government did not and at this time the exemption has been put in to clarify what the Federal Government had decided to do and that was to exempt the farmers up to 150 miles along the borders, e.g., a North Dakota farmer could come into the state of Montana within 150 miles from farm headquarters loaded with grain and not have to purchase a commercial driver's license. 2) The Federal Government has lowered the standards on blood alcohol for commercial driver's license only. The blood level for commercial license is .04 compared to .10 for the state of Montana. 3) The definition of a serious traffic violation. Sen. Farrell stated the Dept. has cited a statute that pertains to all drivers and the Federal Government has come up with guidelines, this bill allows the Motor Vehicle Div., Drivers Services Bureau to adopt federal rules under the Montana Administrative Procedure Act. Sen. Farrell stated that this bill will allow the Dept. the flexibility to change or adopt basic rules without having to come back every session.

Sen. Farrell gave a synopsis of two states that have written into their commercial driver's license bills so they can contract with a private corporation, individual or firm to conduct the driving portion only of the test. Sen. Farrell stated this bill pretty much cleans up the commercial driver's license bill and stated if this passes that he would not have to come back before the Committee in years to come.

Testifying Proponents and Who They Represent:

Ben Havdahl, Motor Carriers Assoc.
Duane Tooley, Chief of Driver Services Bureau
Peter Funk, Attorney General's office

Proponent Testimony:

Mr. Havdahl stated the MMCA supports the passage of SB 355, implementing the update requirements on the Commercial Driver's License Program. Mr. Havdahl stated the CDL program when in place in April 1, 1992 by all states will be the most significant program ever adopted to remove the bad truck drivers from the roads. Mr. Havdahl stated this passage represents the culmination of a goal pursued for 30 years: one driver, one license and one record, and stated it will be most effective in returning the industry's drivers image back to being truly "knights of the road". See Exhibit 1.

Mr. Funk gave a synopsis of the different provisions of SB 355 from a legal standpoint because the changes deal with suspensions of driver's license in the commercial context. Mr. Funk went through the bill: On Sec. 2., Mr. Funk stated that if a commercial operator does something that disqualifies them from holding a commercial license that status would be entered on the Federal record keeping system. Mr. Funk stated the bill allows the state of Montana to suspend a license if that driver has been disqualified based on some violation from another state that would not be known in Montana except when the dept. checks that federal system then it would allow the state of Montana to suspend that license. Sec. 3 deals with suspensions for serious traffic violations and has been amended. Mr. Funk stated the federal rule guidelines on what they consider to be a serious traffic violation were not issued at the time the bill was put together, but has been done now by federal rule and have specified particular offenses they consider to be serious traffic violations. Mr. Funk stated that all the time periods for suspension of offenses are mandated by the federal rules. Sec. 4 is designed for a suspension if someone is convicted of a felony involving a controlled substance while driving a commercial vehicle. Mr. Funk stated of all the suspensions this one was probably the most infrequently used. Sec. 5 deals with the suspension of operating a vehicle with a BAC of .04 or more. Mr. Funk

stated in general the bill is designed the same as our existing drinking and driving statutes, the only difference in terms for that level of operation is the BAC level. Sec. 6 deals with the commercial operator to submit to a chemical test to determine the level of the BAC. Mr. Funk stated that sec. 7 is word for word out of the Appeal Right in the implied consent sec. of Motor Vehicle Code, e.g., a driver that faces suspension for BAC has the right to go into court for a hearing. Mr. Funk went on to the exclusion of farm vehicles that drive 150 miles within farm headquarters. Mr. Funk stated this is designed for the farmers that live on the borders of Montana and deliver agriculture products into the state. Mr. Funk stated that all vehicles registered as farm vehicles are exempt from this bill.

Mr. Tooley stated his dept. supports this bill to clean up the commercial licensing procedures. Mr. Tooley stated there would be loss of federal funds if Montana does not comply with these federal rules. Mr. Tooley stated if Montana doesn't comply with licensing these operators under the federal act by April 1, 1992, the operators would not be able to drive in interstate commerce, but felt that Montana would easily be able to have it done by that date.

Testifying Opponents and Who They Represent:

Bob Robinson, Administrator Motor Vehicle Division

Opponent Testimony:

Mr. Robinson stated the amendments that were put on in the Senate on sec. 8, part (2) states that the dept. may authorize third party testers, this will be the first time this has happened in Montana. Mr. Tooley stated that other states that have this in place are having problems with it and they have said if you have not started third party testers don't start. Mr. Tooley stated that large trucking firms or school bus carriers, etc. could have someone employed by their own firms to do the testing and then how would the state know they are in compliance with the state or federal rules. Mr. Tooley stated if they open this up to a single entity they could not stop others from starting it and would lose control.

Questions From Committee Members: Rep. Roth asked Sen. Farrell if there are companies in the state that have authority for third party testers now. Sen. Farrell stated at this time only the Montana Motor Carriers are doing it.

Rep. Roth asked Mr. Robinson if this wouldn't take some of the pressure off of their people if the Motor Carriers get certified and officially trained and enter into an agreement with the Department of Highways so his people wouldn't be so spread out? Mr. Robinson stated there wasn't any doubt that

it would help his dept. out because they only have three commercial motor vehicle testers around the state plus the five district supervisors that are authorized to give the commercial vehicle testing. Mr. Robinson stated it would help, but stated they didn't know how they would maintain quality control if there were third party testers out there.

Rep. Stang asked Mr. Robinson if the Agriculture exemption applied to log truck drivers? Mr. Robinson stated it did not, because when it went to the Federal Government the log truck drivers did not get in there to get logging endorsed.

Rep. Stang asked Mr. Robinson how the driver's license station worked and if it worked out well with the rural areas that have a period of 6 weeks or 6 months to take the test. Mr. Tooley answered stating they had 90 days after an application was made in any county and have not had any problem meeting that schedule.

Mr. Verdon asked Mr. Robinson if he would have to adopt rules of certification on subsection 2? Mr. Robinson said they would and would have to be specific as to what the requirements were of the individuals and what kind of training they would need ahead of time, the tests they would have to pass and also what kinds of up dates they would need on their training and testing, because if the bill is passed as is they would be like the trained motor vehicle testers.

Closing by Sponsor: Sen. Farrell closed stating that he felt there was good discussion and appreciated the Committee listening and hoped he didn't have to come back next session.

EXECUTIVE ACTION:

DISPOSITION OF HOUSE BILL 709

Motion: Rep. O'Connell made the motion to DO PASS.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Aafedt called the question. The motion CARRIED unanimously to DO PASS.

DISPOSITION OF SENATE BILL 148

Motion: Rep. Zook moved to take SB 148 off the table.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: Question was called. The motion FAILED to take SB 148 off of the table.

HEARING ON SENATE BILL 449

Presentation and Opening Statement by Sponsor:

Rep. Campbell carried the bill for Senator Beck. Rep. Campbell stated this bill allows the Department of Justice to issue a motor vehicle certificate of title when an applicant cannot prove vehicle ownership if the applicant furnishes the required bond and affidavit.

Testifying Proponents and Who They Represent:

Peter Funk, Attorney General's office

Proponent Testimony:

Mr. Funk stated this bill was brought forward at the department's request and is designed to deal with the Dept. of Justice's liability. Mr. Funk said they issue titles to the applicant and if it satisfies the dept. that they are entitled to the title. Mr. Funk said this bill is patterned after statutes from other states, and at this time the Motor Vehicle statutes are silent as to what to do if someone asks for a title and does not have the old one. Mr. Funk stated what they are proposing in this bill is a three step process: 1) The individual has to provide the dept. with a affidavit, for e.g., a) facts b) circumstances on how they acquired the vehicle, c) security or liens if aware of any, d) the date and amount secured and e) if the applicant has the right to that certificate. Mr. Funk stated if the dept. is satisfied with that information, the applicant has to file a bond that is equal to $1\frac{1}{2}$ times the retail value of that vehicle. Mr. Funk stated that bond is for the protection of a previous owner of that vehicle. Mr. Funk stated the dept. will return the bond after three years from the date it is deposited or when the original title that was missing at the time of application is turned in.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Aafedt asked Mr. Funk where the three year figure came from? Mr. Funk replied that the dept. figured if the previous owner hadn't come forward in that period of time to establish their right in that vehicle then they give up that right.

Rep. Aafedt asked Mr. Funk how this bill would affect auto dealers? Mr. Funk stated that it would be the same procedure. The way the bill is drafted, the same bond and affidavit would have to be posted.

Rep. Aafedt asked Mr. Funk why they wanted $1\frac{1}{2}$ times the retail value of the vehicle? Mr. Funk replied it is to protect the state against a claim for any incidental damages that may be above and beyond the value of that vehicle.

Closing by Sponsor: Sen. Beck closed.

DISPOSITION OF SENATE BILL 449

Motion: Rep. Roth moved SB 449 to BE CONCURRED IN.

Discussion: Rep. Bachini said he was opposed to the $1\frac{1}{2}$ times the regular retail value of the vehicle and suggested to insert "in an amount equal to $1\frac{1}{2}$ times the average retail value of the NADA book", and felt it would give the dept. more of a guideline.

Rep. Roth suggested to keep the minimum of \$500 in when a vehicle is not listed in the NADA book.

Rep. Aafedt offered a suggestion of putting in "assessed value" to whatever county they are in and that would cover the cars down to licensing them forever.

Rep. Stang clarified the amendment for Mr. Verdon; in the amount equal to the average assessed value of the motor vehicle as determined by the county assessor.

Amendments, Discussion, and Votes: Rep. Bachini moved to accept the language that Mr. Verdon suggested by placing a minimum value of anything not listed. See amendment. Rep. Nelson called the question. All Committee Members voting aye with exception of Rep. Campbell, Rep. Owens and Rep. Stang voting no.

Rep. Aafedt made a motion to make the retail value for 100 percent instead of $1\frac{1}{2}$ times the retail value. Question was called. All Committee Members voting aye with exception of Rep. Stang, Rep. Bachini, Rep. Roth and Rep. Clark voting no.

Recommendation and Vote: The motion CARRIED unanimously to BE CONCURRED IN AS AMENDED.

Motion: Rep. Owens moved to table SB 449. Roll call vote was taken. The motion FAILED 4/8 to table SB 449.

Motion: Rep. Campbell called the question. Roll call vote was taken. The motion CARRIED 9/6 to BE CONCURRED IN AS AMENDED. Rep. Clark will carry the bill on the floor of the House of Representatives.

DISPOSITION OF SENATE BILL 62

Motion: Rep. Aafedt moved SB 62 to BE CONCURRED IN.

Discussion: Rep. Stang stated this bill is one of the most important bills to be passed for the trucking industry.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Davis called the question. Roll call vote was taken. The motion CARRIED 13/2 to BE CONCURRED IN. Rep. Stang will carry SB 62 on the floor of the House of Representatives.

DISPOSITION OF SENATE BILL 94

Motion: Rep. Aafedt moved SB 94 to BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: Rep. Roth moved amendments. Rep. Bachini called the question. All Committee Members voting aye to pass amendments.

Recommendation and Vote: Rep. Campbell called the question. The motion CARRIED unanimously to BE CONCURRED IN AS AMENDED. Rep. Campbell, Rep. Roth and Rep. Zook voted no. Rep. Koehnke will carry the bill on the floor of the House of Representatives.

DISPOSITION OF SENATE BILL 355

Motion: Rep. Aafedt moved SB 355 to BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Campbell called the question. The motion CARRIED unaimously to BE CONCURRED IN. Rep. Campbell and Rep. Bachini voted no. Rep. Stang will carry the bill on the floor of the House of Representatives.

DISPOSITION OF SENATE BILL 389

Motion: Rep. Patterson moved SB 389 to BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: Rep. Patterson moved the amendment. Rep. Patterson stated this amendment would change the tax from \$108 to \$120. Rep. Patterson stated this amendment would let the user have 12,000 miles of travel at 20 miles to the gallon on a diesel car or pickup, and would be equivalent to 600 gallons at 20 cents a gallon for State Highway diesel fuel tax.

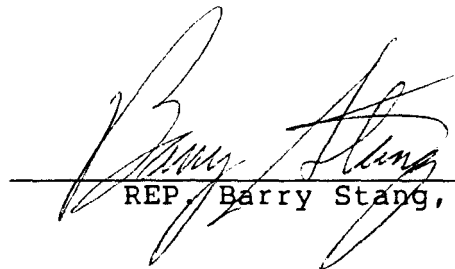
Rep. Zook asked Rep. Patterson if it wasn't stated in the bill that \$8 of the \$108 went to the county. Rep. Patterson replied that he wants the counties left out, that this is to be applied for highway tax.

Rep. Roth called the question on the amendment. All Committee Members voting aye with exception of Rep. Clark and Rep. Campbell voting no.

Recommendation and Vote: Rep. Bachini called the question. The motion CARRIED unanimously to BE CONCURRED IN AS AMENDED. Rep. Owens voted no. Rep. Patterson will carry SB 389 on the floor of the House of Representatives.

ADJOURNMENT

Adjournment At: 6:10 p.m.



REP. Barry Stang, Chairman

BS/cj

5906.min

DAILY ROLL CALL

HIGHWAYS AND TRANSPORTATION COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date March 14, 1989

NAME	PRESENT	ABSENT	EXCUSED
Chairman Stang, Barry "Spook"	✓		
Vice Chairman Linda Nelson	✓		
Rep. Bachini, Bob	✓		
Rep. Davis, Ervin	✓		
Rep. Harrington, Dan			✓
Rep. O'Connell, Helen	✓		
Rep. Steppler, Don			✓
Rep. Westlake, Vernon	✓		
Rep. Aafedt, Ole	✓		
Rep. Campbell, Bud	✓		
Rep. Clark, Robert	✓		
Rep. Owens, Lum	✓		
Rep. Patterson, John	✓		
Rep. Roth, Rande	✓		
Rep. Zook, Tom	✓		

STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation
report that House Bill 709 (first reading copy -- white) do
pass .

Signed: _____
Barry Stang, Chairman

STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that Senate Bill 449 (third reading copy -- blue) be concurred in as amended .

Signed: _____
Barry Stang, Chairman

[REP. _____ WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 2, line 15.

Strike: "1 1/2 times"

2. Page 2, lines 15 and 16.

Strike: "average retail"

3. Page 2, lines 16 and 17.

Strike: "by the department of revenue"

Insert: "under the provisions of 61-3-503(1)(c) for the year in which the application for certificate of title is made"

STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that Senate Bill 62 (third reading copy -- blue) be concurred in .

Signed: _____
Barry Stang, Chairman

[REP. STANG WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that Senate Bill 94 (third reading copy -- blue) be concurred in as amended .

Signed: _____
Barry Stang, Chairman

[REP. KOEHNKE WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 6, line 21.

Following: "restaurants,"

Insert: "campgrounds,"

2. Page 9, line 11.

Strike: "or advertises on"

3. Page 9, line 14.

Following: "sign"

Insert: "for 1 year after the illegal outdoor advertising structure is removed unless the owner voluntarily removes it within 45 days of receiving notification under 75-15-131"

4. Page 13, line 9.

Strike: "or advertises on"

5. Page 13, line 12.

Following: "sign"

Insert: "for 1 year after the illegal outdoor advertising structure is removed unless the owner voluntarily removes it within 45 days of receiving notification under 75-15-131"

STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation
report that Senate Bill 355 (third reading copy -- blue) be
concurred in .

Signed: _____
Barry Stang, Chairman

[REP. STANG WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that Senate Bill 389 (third reading copy -- blue) be concurred in as amended .

Signed: _____
Barry Stang, Chairman

[REP. Fallson WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 13, line 20.
Strike: "\$108"
Insert: "\$120"

EXHIBIT 1
DATE 9 March 14
NO SB 355

STATEMENT by MMCA on SB 355

Mr. Chairman, members of the committee. For the record, I'm Ben Havdahl, representing the Montana Motor Carriers Association.

MMCA supports the passage of SB 355, implementing the update requirements on the Commercial Drivers License Program.

The CDL program, when in place by April 1, 1992, by all states will be the most significant program ever adopted to remove the bad truck drivers from the road. It represents the culmination of a goal pursued for 30 years: one driver, one license, one record It will be most effective in returning the industry's drivers image back to being truly "knights of the road".

Under the law, all states will administer written tests on general knowledge and air brakes, including vehicle operations, cargo security, safe driving practices, federal safety regulations and the effects of fatigue and alcohol or drug use.

Endorsements are required to operate double and triple-trailer combinations, tank trucks and any vehicle hauling placarded hazardous materials.

Many, but not all CDL applicants will have to pass a "skills test", an actual driving test in a vehicle provided by the applicant that has cleared a safety inspection. Included in this test is a pre-trip inspection and backing and parking maneuvers, along with open road driving.

At the request of MMCA, the Senate amended SB 355 in Section 8 on page 9, allowing the Department of Motor Vehicles to authorize private testing of the

driving portion of the exam. MMCA is interested in providing safety services to its members. Plans are in the mill to hire on the staff, a professional safety counselor to help members establish a formal safety program. The program has as part of its objectives to help reduce costs of Workers' Compensation Insurance through established effective safety programs of members.

The service would also include administering the driving portion of the CDL program at various member locations around the state, as requested, the safety counselor would be trained and certified by the Department and would be providing a service to the Department as well. We would respectfully ask this committee to support SB 355 as amended by the Senate.

Thank You.

VISITOR
Highway

BILL NO. SB 3554 449

DATE March 14, 1989

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ROLL CALL VOTE

Highways and Transportation

COMMITTEE

DATE March 14 BILL NO. SB 449 NUMBER 1

NAME	AYE	NAY
Rep. Bachini, Bob	✓	
Rep. Davis, Ervin	✓	
Rep. Harrington, Dan	✓	
Rep. O'Connell, Helen	✓	
Rep. Stepler, Don	✓	
Rep. Westlake, Vernon		✓
Rep. Aafedt, Ole		✓
Rep. Campbell, Bud		✓
Rep. Clark, Robert	✓	
Rep. Owens, Lum		✓
Rep. Patterson, John	✓	
Rep. Roth, Rande		✓
Rep. Zook, Tom	✓	
Chairman Stang, Barry "Spook"		✓
Vice Chairman Linda Nelson	✓	

TALLY

9 6

Claudia Johnson
Secretary

Barry Stang
Chairman

MOTION: Rep. Roth made the motion
CARRIED 9/6

ROLL CALL VOTE

Highways and Transportation

COMMITTEE

DATE March 14 BILL NO. SB62 NUMBER 2

NAME	AYE	NAY
Rep. Bachini, Bob	✓	
Rep. Davis, Ervin	✓	
Rep. Harrington, Dan	✓	
Rep. O'Connell, Helen	✓	
Rep. Steppler, Don		✓
Rep. Westlake, Vernon		✓
Rep. Aafedt, Ole	✓	
Rep. Campbell, Bud	✓	
Rep. Clark, Robert	✓	
Rep. Owens, Lum	✓	
Rep. Patterson, John	✓	
Rep. Roth, Rande	✓	
Rep. Zook, Tom	✓	
Chairman Stang, Barry "Spook"	✓	
Vice Chairman Linda Nelson	✓	

TALLY

Louise Johnson
Secretary

Barry Stang
Chairman

MOTION: Rep Aafedt made the motion to
BCCI 13/2