

## MINUTES

### MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON AGRICULTURE

Call to Order: By Chairman Beck, on January 9, 1989, at  
1:00 p.m.

#### ROLL CALL

Members Present: Senators: Hubert Abrams, Gary Aklestad,  
Esther Bengtson, Gerry Devlin, Jack Galt, Greg  
Jergeson, Gene Thayer, Bob Williams, Chairman Beck

Members Excused: None

Members Absent: None

Staff Present: Doug Sternberg, Legislative Council

Announcements/Discussion: Chairman Beck reminded each  
committee member to donate \$3 to the coffee fund.

#### HEARING ON SENATE BILL 57

Presentation and Opening Statement by Sponsor: Senator  
Loren Jenkins, District 7, indicated he was introducing  
the bill on behalf of the custom combiners in order to  
clarify the law regulating their operation in the state  
of Montana. "This bill changes the fee to a special  
permit fee to make enforcement of the law the same as  
the enforcement as other G.V.W. laws. The fee remains  
the same but includes the openlength because the  
equipment being used is becoming larger and longer.  
The fee has been made optional by change of the word  
shall to may. Also the bill allows a custom combiner  
to operate in the same manner as a farmer. This change  
is fair because he is working for the farmer and the  
farmer probably does not have his own equipment or who  
does not have sufficient harvest equipment." Senator  
Jenkins also stated that these exceptions to the  
general G.V.W. provisions are exactly the same as those  
provisions that apply to farmers under 61-10-144. "The  
custom combiner will not be allowed to operate his  
commercial hauler between elevators under this special  
permit. I am recommending amendment of enforcement  
provisions to make the overweight punishable in the  
same manner as applies to the farmers under 61-10-144.

Overweight violations will be calculated for legal weight not for tolerance...allows 20% tolerance for combine trailers. This is necessary because combining equipment has continued to become larger and heavier." SB 57 also provides authority to the Department of Highways to make rules so they can implement this permit. Criminal penalties have been omitted from the section; violations of this permit will result in confiscating of the permit and possible misdemeanor penalties for excess size and weight.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

Jack Gunderson representing himself

Testimony:  
Proponents:

None

Testimony:  
Opponents:

Jack Gunderson indicated that he did not understand the first section about the \$40 fee on the trucks and trailers and \$35 fee on the combine itself. The over length of the combine he believed was correct because the combines are getting bigger. Mr. Gunderson also stated he believed that the custom cutters should not be able to haul commercially from one elevator to the other. "Also about the penalty that the truck can go up to the 670 pound weight limit on it. I think on the Bootlegger trail north of Great Falls, they have that posted at 400 pounds per square inch. Now, I don't know what this bill is going to allow them that 670 pounds. I wish I could do that myself! I do have a lot of questions about this bill. The reason I've always oppose this custom combine legislation is that my own combine, I pay about twelve hundred bucks a year on property taxes on it; I pay thousand bucks a year for license and G.V.W. I pay a couple thousand bucks a year for insurance. I don't custom combine but I think it's unfair that the producer that hires custom cutters--he's getting quite a substantial monetary benefit over me. That makes it rather hard to compete with it."

Questions From Committee Members: Senator Bengtson asked Jess Monroe to clarify some of the questions Mr. Gunderson had. (Mr. Monroe is currently the acting director for the Department of Highways.) "Mr. Gunderson brings out the difference between the \$40 and the \$20 permit. The \$40 is for a nonstate resident that's bringing the equipment into the state to do custom cutting. The \$20 is for a Montana resident who is in the business of custom cutting. The elevator to elevator has been a problem in the past. What this bill does is, it basically protects the commercial hauler so that custom combiners cannot come into the state. For instance, on the day that it's raining to go over to an elevator and start hauling commercially and then haul between the elevators. They won't be able to do that. The custom combiners will only be able to haul from the field to where they first unload." Mr. Monroe indicated that the "shall" is scratched out and the word "may" is inserted. "It gives the person the option of either purchasing this permit or 100% legal licensing in the state of Montana. When a custom combiner comes in and he does not have this permit then we in G.V.W. can use our penalty sections to make him purchase proper permits to make him license 100% in the state of Montana and also to fine him." Mr. Monroe also stated on the overweight, this permit will grant them 20% tolerance and it will not override a posted road. "The county posts a road, this permit is not going to let them operate on that road. In the past, every time a custom combiner would go to move he would have to get a trip permit. As you are aware, that's very difficult to do because we don't have the staffing to be able to cover writing all the permits. Now, this bill grants them an overlength permit and it also grants them this 20% overweight permit for the season that they are in here."

Senator Beck asked Jess Monroe if the 670 pound is a standard weight for most trucks. "Where is the incentive to get rid of the single axle?--they'll probable stay in existence as long as you give them law to stay in existence." Mr. Monroe said that you would have to put an amendment in the bill to sunset that provision in 2 years.

Senator Aklestad stated that he didn't interpret that the 670 pounds is strictly for trailers. Jess Monroe replied that it was for the trucks and the trailers.

Senator Aklestad asked Jess Monroe about the 50 mile provision. "When you get a permit then 50 miles is the latitude that permit allows you to haul from that particular farmer at that time. Is that correct?" Jess Monroe replied that it was correct.

Senator Aklestad asked, "If you move to another farmer then it gives another 50 mile latitude?" Mr. Monroe replied, "That's right." Senator Aklestad thought that could be a problem for a custom cutter, "because we've got cases where if you're trying to hit a market that's a little better might not be your closest market but a market that you're hauling to might be more than 50 miles." Jess Monroe stated the reason that provision was in the bill was to comply to the G.V.W. statutes.

Senator Bengtson asked if you can exceed the weight by 20%. Mr. Monroe replied that you can have 20,000 pounds on a single axle with 34,000 pounds on a tandem. "It was 5% tolerance before now, this will allow 20% tolerance on a single axle."

Senator Beck asked, "What was the cost difference between this special use permit or if you went ahead and got all the permits? Is there quite a cost difference?" Dave Galt, the assistant Bureau Chief to the G.V.W. Division stated: "In lieu of those fees other than taxes you have to buy 100% G.V.W. fees--for a 46,000 pound truck it would run maybe \$700 a year. Additionally, the fee for an oversize annual permit is \$75 a year. So there's a considerable difference between what it would cost him to license that by the year."

Senator Aklestad asked "Don't these custom cutters qualify for the same license fee as farmers do?" Dave Galt replied, "No, they don't. They are a commercial operator."

Senator Williams asked, "When the custom combiners come in on a \$40 permit is there any length of time they can work here?" Dave Galt said the combine permit is in effect for the combining season. "The Montana custom cutter would only have to buy that one permit at the \$20 fee. He would not have to buy 100% fees in order to operate a custom combine on a commercial basis."

Closing by Sponsor: Senator Loren Jenkins, District 7,  
closes.

Hearing was closed on SB 57. Executive Action will be taken  
on the bill at a later date.

ADJOURNMENT

Adjournment At: 2:05 p.m.

  
\_\_\_\_\_  
TOM BECK, Chairman

TB/jj

ROLL CALL

AGRICULTURE COMMITTEE

DATE 1/9/89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR HUBERT ABRAMS	✓		
SENATOR GARY AKLESTAD	✓		
SENATOR ESTHER BENGTON	✓		
SENATOR GERRY DEVLIN	✓		
SENATOR JACK GALT	✓		
SENATOR GREG JERGSON	✓		
SENATOR GENE THAYER	✓		
SENATOR BOB WILLIAMS	✓		
SENATOR TOM BECK	✓		

Each day attach to minutes.

## SENATE BILL NO. 57

I have introduced this bill on behalf of the custom combiners in order to clarify the law regulating their operation in Montana. This bill will move the custom combine provisions from Title 15 to the other GVW laws in Chapter 10 of Title 61. The bill changes the fee into a special permit fee to make enforcement of the law the same as enforcement of other GVW laws. The fee remains the same but includes "overlength" because the equipment being used is becoming larger and longer. The fee has traditionally allowed the custom combiners to operate without other special permits.

On page 1, the permit has been made optional by the change from "shall" to "may" on line 21. The operator may choose to license his equipment under other Montana laws and avoid the need for this permit.

On page 2, subsection (3) has been added to allow a custom combiner to operate in the same manner as a farmer. This change is fair because he is working for a farmer who probably does not have his own equipment or who does not have sufficient harvest equipment. These exceptions to general GVW provisions are exactly the same as those which apply to farmers under 61-10-144. The custom combiner will not be allowed to operate as a commercial hauler between elevators under this special permit. I am recommending amendment of the enforcement provisions to make overweight punishable in the same manner as applies to farmers under 61-10-144. Overweight violations will be calculated from the legal weight not the tolerance.

On page 3, subsection (4) allows a 20% tolerance for combine trailers. This is necessary because the combine equipment has continued to become larger and heavier.

EXHIBIT NO. 1 PG 2  
DATE 4/9/89  
BILL NO. SB 57

The bill also provides rulemaking authority to the Department of Highways so that it can implement this permit.

The criminal penalties have been omitted from the original section because violations will be covered under the existing penalties in Chapter 10 of Title 61. Failure of the custom combiner to abide by the conditions of special permit will result in the confiscation of the permit and possible misdemeanor penalties for excessive size and weight.

I have asked Jesse Munro, Acting Director of the Department of Highways and Administrator of the GVW Division to answer any questions you may have.

BG:ml



AMENDMENT TO SENATE BILL

NO. 57

Page 2.

Following: line 25

Insert: "If the truck exceeds the tolerance provided under this section, the fine or penalty imposed shall apply to all of the weight over the legal limit allowed by 61-10-107."

Page 3.

Following: line 7

Insert: "If the combine trailer exceeds the tolerance provided under subsection 3, the fine or penalty imposed shall apply to all of the weight over the legal limit allowed by 61-10-107."

Amendments to Senate Bill No. 57  
Introduced Reading Copy

For the Senate Committee on Agriculture

Prepared by Doug Sternberg  
January 9, 1989

1. Title, line 9.

Strike: "ELIMINATING"

Insert: "REVISING"

2. Page 2, line 25.

Following: "required."

Insert: "If the truck exceeds the tolerance provided under this subsection, the fine or penalty imposed applies to all weight over the legal limit allowed by 61-10-107."

3. Page 3, line 7.

Following: "system."

Insert: "If the combine trailer exceeds the tolerance provided under subsection (3), the fine or penalty imposed applies to all weight over the legal limit allowed by 61-10-107."

SB 57  
1-9-89

Amendments to Senate Bill No. 57  
Introduced Reading Copy

For the Senate Committee on Agriculture

Prepared by Doug Sternberg  
January 9, 1989

1. Page 3, line 3.

Following: "limitations and"

Insert: "until July 1, 1991, may be operated"

Statement of Intent  
Bill  
(LC 0016)

This bill requires a statement of intent because [subsection (8) of section 1] authorizes the department of highways to adopt administrative rules to implement the act. The act is intended to provide a special permit fee for the vehicles and equipment of custom combiners operating in the state, in lieu of the usual vehicle license fees and gross vehicle weight, overwidth, overlength, and overheight fees otherwise required. The custom combiner has the option of paying the regular fees.

The act also permits the use of the custom combiner's truck or trailer to haul grain, but only from the field to the point of first unloading, within certain limitations. This authority is given so that the combiner may assist the producer in getting the harvested grain out of the field, and is not intended to allow transportation of the grain in commerce.

It is the intent of the legislature that the department of highways adopt necessary rules to implement the custom combiner's special permit and to regulate the operation of the vehicles involved in conformity with the act and special permit requirements.

DATE: \_\_\_\_\_

1/17/87

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Marvin Barber	A P A	57	<input type="checkbox"/>	<input checked="checked" type="checkbox"/>
Jack Lundberg	Self	57	<input type="checkbox"/>	<input type="checkbox"/>
Denver Tusk	Self	57	<input checked="checked" type="checkbox"/>	<input type="checkbox"/>

(Please leave prepared statement with Secretary)