

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON HIGHWAYS & TRANSPORTATION**

**Call to Order:** By **CHAIRMAN BARRY STANG**, on January 15, 1991, at 3:00 p.m.

#### **ROLL CALL**

##### **Members Present:**

Barry "Spook" Stang, Chairman (D)  
Floyd "Bob" Gervais, Vice-Chairman (D)  
Ernest Bergsagel (R)  
Robert Clark (R)  
Jane DeBruycker (D)  
Alvin Ellis, Jr. (R)  
Gary Feland (R)  
Mike Foster (R)  
Patrick Galvin (D)  
Dick Knox (R)  
Don Larson (D)  
Scott McCulloch (D)  
Jim Madison (D)  
Linda Nelson (D)  
Don Steppler (D)  
Howard Toole (D)  
Rolph Tunby (R)

**Members Excused:** Vice Chair Floyd Gervais (D)

**Staff Present:** Valencia Lane, Legislative Council  
Claudia Johnson, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

#### **HEARING ON HB 59**

##### **Presentation and Opening Statement by Sponsor:**

**REP. DAN HARRINGTON, House District 68, Butte,** said this bill is a very important piece of legislation. It deals with the privacy issue and said there would probably be a lot of amendments introduced. He said anyone can write in and acquire driving records without approval. Under this bill, only law enforcement officers may acquire this information. If an insurance agent needed this information they would need that person's permission. California has adopted this system because of a murder that took place because information had been released without knowledge of

who was calling. The person who committed the murder received address, phone numbers, etc. He did not have a problem with the right-to-know criminal record and the newspapers getting information as far as DUI etc;; an amendment may be needed to exclude them. There are many people who look at your driving record who do not have a right to. This bill gives some guidelines for privacy.

**Proponents' Testimony:** None

**Opponents' Testimony:**

Ben Havdahl, Montana Motor Carriers Association, distributed EXHIBIT 1. The handout is a copy of the Department of Transportation Motor Carrier safety regulation, that has been adopted by the state of Montana for all state operations. The way the bill is drafted would preclude the industry from complying with the regulations. The regulation states the motor carrier to investigate the driving record of regularly employed drivers for a continuous period which began before January 1, 1971. The regulation states that each motor carrier shall review the driving record of each driver it employs to determine whether that driver meets minimum requirements for safe driving. These records have to be obtained from the Motor Vehicle Division. Insurance companies comply to the motor carriers information of the driver at the time the insurance policy is renewed. Without this information the cost of insurance would be very high. Under the commercial drivers license law that Montana has adopted and also a federal requirement that all commercial drivers only have one license and the driving records to be kept on a centralized computer throughout the country. The Montana Motor Carriers would be willing to work with the committee regarding the regulations. Maybe an amendment is needed to allow them to stay in business.

Ron Ashabraner, State Farm Insurance, stated that State Farm Insurance is the insurer for 30% of the vehicles in Montana. Basic insurance principle states premium rate not be inadequate, excessive nor unfairly discriminatory. Within this criteria the function of the automobile underwriter is to decide who they can insure and at what price. The degree of this function is of interest not only to the insurance companies but to the individual policy owners. The driving record is the most reliable indicator of the driver's ability to safely operate an automobile. The driving record (MVR) maintained by the state motor vehicle department is the main tool used by insurance companies and underwriters to accomplish the goals of who will be insured and what the ultimate cost will be. The records must be complete, accurate and easily obtainable. He said State Farm Insurance has a computer directly tied into the state and no paper work is used to request MVR. A study was done by the University of North Carolina throughout the United States to

verify the accuracy of policies issued to applicants; it was determined that the actual fines, accidents, convictions and etc. was 200% higher than was actually stated by the applicants. State Farm Insurance asks that this bill does not pass.

**Chuck Walk, Executive Director of the Montana Newspaper Association,** stated his opposition. Not only will it hinder, but it will also eliminate access of records of all individuals. He offered an amendment. **EXHIBIT 2** The existing legislation would be acceptable to all legitimate individuals and organizations seeking information from driving license records. Driving licenses are granted as a privilege and the public should have unrestricted access to any and all information of that nature.

**Rick Foote, Montana Standard, Butte,** is opposed to HB 59. The way the bill is written would violate the rights of the no provisions of 1972 Montana Constitution. They support the suggested amendments and believe their implementation would suffice notification to the individuals that driving records have been released. He referred to the Attorney General's Opinion 119, Oct. 31, 1988, which held that such information of driving records is public information. He urged the committee to implement the suggestions offered in the amendments distributed by Mr. Walk.

**Jacqueline N. Terrill, Legal Council, American Insurance Association,** stated they are a trade association comprised of over 200 casualty insurers who provide insurance to the drivers of Montana. The Association opposes HB 59. Insurance should be based upon the driver's record and when that is unavailable it makes the insurers' job restricted and insurance is mandatory in Montana. She urged a do not pass recommendation.

**Roger McGlenn, Executive Director of the Independent Insurance Agents Association of Montana,** stated the driving record is the most valuable criteria for the issuance of insurance. There would be increased operating expenses to obtain the written permission to access the motor vehicle reports.

**Duane Tooley, Chief of Drivers Service Bureau,** stated they are not in opposition to the bill, but there could be a considerable fiscal impact. If the bill is passed in its present form, it would destroy their ability to handle request for MVRs on their automated system. They do over 25,000 MVRs monthly, and 99% are done on automated tape. If they had to check each one for signature etc., it would all have to be done by hand. **Mr. Tooley** pointed out this would delete the information about accidents that were not the fault of the insured driver involved.

**Questions From Committee Members:**

**REP. LARSON** asked who ordered this bill. **Mr. Harrington** said he has spoken with a number of people who feel this is too open, but

it was not his intention to keep the insurance companies from obtaining the information they needed. He understands the difference between a right and a privilege.

REP. TOOLE asked if there was a certain group that he did not want to have access to this information. REP. HARRINGTON replied there are groups that need this information but felt there is a right to privacy for individuals that some people should not have access to.

REP. TOOLE asked if there was a way to draft a bill to keep individuals from obtaining the information who do not have specific business instead of restricting the organizations that need it. Mr. Tooley said it could be done and referred the committee to the Commercial Act that has information regarding the different kinds of records that can be released.

REP. MADISON said with the thousands of requests for these driving records, how much money does the state of Montana make. Mr. Tooley replied the state makes \$3 per request.

REP. BERGSAGEL asked what the criteria is for allowing individuals to receive the driving record information. Mr. Tooley replied there is essentially no criteria at this time to access the records of any individual.

Closing by Sponsor:

REP. HARRINGTON said that privacy is a part of our everyday life and wanted to protect Montanans from being subjected to people who do not have the right-to-know of other individuals records.

HEARING ON HB 23

Presentation and Opening Statement by Sponsor:

REP. DOROTHY CODY, House District 20, Wolf Point, gave a brief review of how this bill came about and the hassles created when purchasing bulk gas and all the paperwork that needs to be done for the Dept. of Revenue. The Department of Revenue will be required to accept a signed statement from the vendor as evidence of keylock or cardtrol purchases of gasoline for which an agricultural-use refund is requested. When a person applies for the refund, DOR keeps 40% of the tax and the purchaser receives a 60% rebate and that is only on the amount that is being used on the farm. The 1987 Legislature passed a bill on Senator Smith's cardtrol purchases for the agriculture community that was for the purpose of application for a refund under subsection (1), the department shall accept, as evidence of keylock or cardtrol purchases, a statement on the sale of gasoline with applicable tax that identifies the purchaser and is signed by a licensed distributor. She didn't know why this was a problem unless the distributor cheated on the signed statement, they would be the ones that would be fined. REP. CODY hoped HB 23 would end this

problem.

Proponents' Testimony:

**Kay Norenberg, WIFE**, went on record in favor of HB 23. **EXHIBIT 3**

**REP. NELSON** went on record in support of HB 23.

**REP. DEBRUYCKER (Roger)** stated his support of HB 23.

Opponents' Testimony:      None

Informational Testimony:

**Norris Nichols, Administrator of Motor Fuels, DOR**, said that DOR is not taking a stand on HB 23. They are processing about 10,000 claims worth \$4 million to the state of Montana. He said if the money wasn't going back to refunds it would be going into the use of highways. There has not been an attempt to correct this because it has never been brought to the attention of the director.

Questions From Committee Members:

**CHAIRMAN STANG** asked how much tax on gasoline and diesel fuel may be lost to the state through the reporting of refund provisions that go into the highway reconstruction fund. **Mr. Nichols** replied there are three ways to apply for a gasoline refund: 1) application for the 60% refund; 2) if a person has a 2 tank system which is earmarked to show highway use and non-highway use; and 3) by keeping dispersal records. He stated by putting all that together for fiscal year 1990, the state of Montana refunded the gas users \$3,858,638.

**CHAIRMAN STANG** asked if a person fills their car up with gas from a cardtroll are they exempt because they are farmers. **Mr. Nichols** replied the law does not provide a refund on any gas going into a supply tank of a vehicle. They have to issue a bulk delivery invoice. This bill provides for a written statement to be supplied to the DOR in lieu of a bulk delivery invoice delivered to that person. The requirement of fuel to be placed into a slip tank or cannery is by statute. **CHAIRMAN STANG** asked if they were to tax diesel fuel at the distributor level rather than the retail level, would it cut down on the number of employees in the dept. and increase the money going into the highway reconstruction trust fund. **Mr. Nichols** replied it would increase the money going into the highway fund, but questioned how the bill was drafted. All gasoline is used in some way to operate equipment, cars, etc. Most of the bulk diesel fuel purchased is used for heating oil, if a person request #1 or #2 diesel fuel it is drawn from the same tank. The gas act and diesel act are two separate acts. The gas act is used to tax the supplier or distributor upfront; the diesel fuel act is taxed at the time of

use.

REP. BERGSAGEL asked if the propane used on the highway is taxed. Mr. Nickels said it is taxed by a fee method. Propane was taxed the same as other fuels a few years back. Then the propane users decided they wanted it by fee permit which is purchased by the highways. It starts at \$108 for a passenger car and graduates to \$1,000 for a vehicle over 48,000 lbs. Most States use this method.

REP. GALVIN asked how the diesel fuel fee affects the logging trucks rather than for agriculture use. Mr. Nickels stated that most logging trucks are taxed at the time of use because they use bulk storage which is paid up front and are considered off-highway use. Most people do it this way for bookkeeping purposes rather than apply for credit later. The law reads, "any road that is maintained, constructed or reconstructed by a taxpayer's dollar, a tax must be collected".

Closing by Sponsor:

REP. CODY said by providing this piece of legislation states that most people are honest and cannot constantly be worrying about people cheating especially in the agriculture community. Agriculture is being charged the 40% anyway and refunded on the 60% of what they are qualified to receive. All this legislation asks for is that the invoice with the tax on it and the computer printout from the company the fuel is purchased from and be accepted by DOR.

HEARING ON HB 48

Presentation and Opening Statement by Sponsor:

REP. ED GRADY, House District 47, Canyon Creek, said this bill was amended when it was first written. He distributed the amendments to go with the bill. **EXHIBIT 4** This bill is an act providing specifications for commercial tow car warning signs and fire extinguishers. His first amendment changes tow car to tow truck. The first bill originated in 1947. The changes being made now have been in effect in the Dept. of Highways since Jan. 1, 1991 without statute change. All this bill does is upgrade the statute the department already has in effect. The second amendment strikes language from page 1, line 24, to page 2, line 7, to the end of vehicle, it is replaced with the second amendment "the operator or commercial tow truck use for the purpose of rendering assistance to other vehicles shall when rendering assistance that necessitates the obstruction or any portion of a roadway outside the business or residence district, place a highway warning sign as required in subsection 1, (b), in which an area is posted 45 mph and not less than 150 feet from the disabled vehicle and equal distance from the rear of the disabled vehicle, and in an area where the speed limit is more

than the 45 mph place the sign not less than 600 feet from the disabled vehicle and equal distance from the rear". The second part of the bill states that a wet chemical fire extinguisher can no longer be used and requires a dry chemical with 5 lb capacity in equivalent or a fire extinguisher approved by the Department.

**Proponents' Testimony:**

**Henry Lohr, owner of Hanks salvaging and cycling in Townsend,** stated that HB 48 updates the change that has been required since Jan. 1, 1991 regarding the uniformity of signs. Mr. Lohr distributed EXHIBITS 5, 6 & 7.

**Myron Mackey, President of the Montana Tow Truck Association,** said that HB 48 is good for the industry and public safety by upgrading the standards to be more effective.

**Rick Tucker, Lobbyist, Capital City Towing Association,** is in support of HB 48. Everything in the bill has been in place with the towing trucks since January 1, 1991.

**Col. Bob Griffith, Montana Highway Patrol,** said they have been working with the towing association on the proposed bill and support it.

**Jim Manion, AAA of Montana,** said they are involved with the tow trucks and support HB 48.

**Opponents' Testimony:** None

**Questions From Committee Members:**

**CHAIRMAN STANG** said if this is already being done, why is this law needed. **Mr. Lohr** replied the sizes and wording of the signs are being updated in accordance with federal standards.

**REP. CLARK** asked if the speeds and distances in the amendments are currently in effect. **Mr. Lohr** said they were not and referred back to exhibits 5, 6 and 7. **REP. CLARK** asked if the speeds under the 45 mph are changed. **Mr. Lohr** replied they remain the same but go into effect as the speed increases.

**REP. FELAND** asked if this is in place now, why is it needed. **Mr. Mackey** replied this started on the federal level for uniformity throughout the 50 states. The federal standard states on all federal highways or any highway that constitutes federal monies that are incorporated into it, that the federal laws will be followed. He said this is a departmental ruling and the reason why the Dept. has been following the federal guidelines since January 1, 1991. The existing law states 200 ft behind, with this statute in place, the 400 ft. is not legal. This bill is to override the old law.

**Closing by Sponsor:**

REP. GRADY said this is an example of departments getting carried away with their rulemaking and starting to legislate. This bill is needed to override old language. He urged the committee for a do pass.

### HEARING ON HB 62

#### Presentation and Opening Statement by Sponsor:

CHAIRMAN STANG, House District 52, St. Regis, stated this bill is an act requiring that particular tire chains or traction equipment be used on designated dangerous or unsafe highways. The mountain passes in Montana are constantly blocked by trucks that either ignore or do not see the "chains required" sign and block traffic. He gave a synopsis of Lookout Pass that has 25% of the traffic that enters Montana. This makes Lookout Pass the number one used entrance and exit in the state. Montana needs a law similar to the one in Washington that not only states when chains are required, but also what types of vehicles they are required on. If this cannot be made into law, then the highway patrol needs to enforce the current laws.

#### Proponents' Testimony:

Curt Langen, Director of Safety for Montana Motor Carriers Association, said they are concerned for the safety of commercial vehicle traffic and private individuals in Montana and wanted to go on record in support of HB 62.

Opponents' Testimony:      None

#### Questions From Committee Members:

REP. FOSTER asked how this would affect four wheel drive vehicles, i.e. Broncos, Blazers, etc. REP. STANG replied that in Washington four wheel drives are not required to chain up as long as it is in four wheel drive and have proper tires.

REP. LARSON asked if the chains are not on, how would this be enforced. CHAIRMAN STANG said a weigh station is located at the bottom of the pass and hoped that the dept. would give the GVW the authority to enforce the law. REP. LARSON asked if a vehicle is not properly equipped how would this be enforced. CHAIRMAN STANG said in Washington, if a highway pass is closed and the sign for chains required on all vehicles is posted, a highway patrol is stationed there to stop any vehicle not properly equipped.

REP. TOOLE said the bill does not include any penalty provision for a traffic offense. Could language be included stating "any person violating the traffic sign is guilty of". CHAIRMAN STANG said he was not opposed to this, but there are times when language cannot be used to change the title.



REP. FOSTER asked if the 1" tread on tires is for normal tires or for mud and snow tires. CHAIRMAN STANG replied that the 1" is law now and pertains to snow tires.

Closing by Sponsor:

CHAIRMAN STANG summarized the hazards and inconveniences caused by people who are too lazy to chain up when they have been warned. He urged passage of his bill.

CHAIRMAN STANG placed HB 29 and HB 47 in a subcommittee and asked REP. STEPPLER, REP. LARSON and REP. CLARK to work on a solution for the tinted windows.

EXECUTIVE ACTION ON HB 32

Motion: REP. STEPPLER MOVED HB 32 DO PASS.

Discussion: REP. MCCULLOCH asked CHAIRMAN STANG if REP. CONNELLY would present more discussion on this. CHAIRMAN STANG said REP. CONNELLY considered putting a title and a fee on the bill, but decided to leave the bill as is, by the time a title and fee are added another tax would be created.

CHAIRMAN STANG explained the bill as he understood it; if the bill passed in its present form, golf carts would not be subjected to the fees like off-highway vehicles. If owners of golf carts had a certificate of title or registration and the cart was stolen, he could trace it if was taken to another state.

CHAIRMAN STANG informed the committee if it did not want to vote on the bill in its present form, it could be placed in a subcommittee.

VOTE: REP. FOSTER called the question. Voice vote was taken. Motion FAILED.

MOTION/VOTE: REP. CLARK MADE THE SUBSTITUTE MOTION THAT HB 32 BE TABLED. Motion CARRIED 15 to 1 with REP. LARSON voting no.

CHAIRMAN STANG explained what happens if this bill is killed. Under present law, golf carts are taxed the same as off-road vehicles, but the money that comes from off-road vehicles would continue to go into the FWP to establish off-road vehicle trails elsewhere in the state and would not be used for the golf courses.

REP. STEPPLER said this bill had been before the committee two years ago. He had talked to Ms. Ellison who informed him the money from the off-road vehicles goes into FWP. The off-road vehicle people have been trying to take the money away from FWP and haven't accomplished this; the money has not gone into the programs it was intended for. Ms. Ellison is having another bill drafted to solve this problem.

**MOTION/VOTE:** REP. LARSON MADE A SUBSTITUTE MOTION THAT HB 32 DO NOT PASS. Roll call vote was taken. EXHIBIT 8 Motion FAILED 12 to 4 with REP. GERVAIS absent.

CHAIRMAN STANG said a do not pass sends the bill to the floor with an adverse committee report. An aye vote kills the bill and a no vote leaves the bill on the table and will take this back to the previous motion.

**VOTE:** REP. CLARK MOVED TO REVERSE VOTE ON HB 32. HB 32 BE TABLED. Motion CARRIED 12 - 4 with REP. BERGSAGEL, REP. KNOX, REP. LARSON and REP. MADISON voting no. EXHIBIT 8

**EXECUTIVE ACTION ON HB 98**

**Motion:** REP. FOSTER MOVED HB 98 DO PASS.

**Discussion:** CHAIRMAN STANG informed the committee before the motion was made that Rich Brown, Director of Veterans Administration, said they were going to charge a \$10 fee for a special plate the Veterans Administration is making that says "Veterans" and might be applied to several other specialized plates.

**Motion/Vote:** Question was called. Voice vote was taken.

**Vote:** HB 98 DO PASS. Motion CARRIED unanimously.

**EXECUTIVE ACTION ON HB 23**

**Motion:** REP. NELSON MOVED HB 23 DO PASS.

**Discussion:** REP. LARSON asked if an amendment could be written to include cardtrol for diesel. Ms. Lane said this bill only pertains to gas. There is not a refund on diesel because there is not a tax on diesel.

CHAIRMAN STANG said a gas tax is paid on the distributor level so everyone that uses gas is taxed and applies for a refund from there. Diesel tax has never been collected on the distributor level, but is collected from the retail level.

**Vote:** HB 23 DO PASS. Motion CARRIED 14 to 2 with CHAIRMAN STANG and REP. BERGSAGEL voting no. EXHIBIT 9

**EXECUTIVE ACTION ON HB 48**

**Motion:** REP. LARSON MOVED HB 48 DO PASS.

**Motion/Vote:** REP. CLARK moved to adopt amendments. EXHIBIT 4 Discussion followed. Voice vote was taken. Motion CARRIED unanimously.

MOTION: REP. CLARK MADE A SUBSTITUTE MOTION THAT HB 48 DO PASS AS AMENDED.

VOTE: HB 48 DO PASS AS AMENDED. Motion CARRIED 15 to 1 with CHAIRMAN STANG voting no.

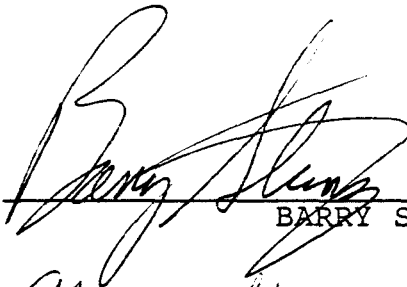
EXECUTIVE ACTION ON HB 59


Motion/VOTE: REP. LARSON MOVED HB 59 BE TABLED.

Vote: HB 59 BE TABLED. Motion CARRIED 14 to 2 with REP. NELSON and REP. MADISON voting no.

ADJOURNMENT

Adjournment: 5:00 p.m.

  
BARRY STANG, Chair

  
CLAUDIA JOHNSON, Secretary

BS/cj

# HOUSE OF REPRESENTATIVES

## HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL

DATE

1-15-91

NAME	PRESENT	ABSENT	EXCUSED
REP. FLOYD "BOB" GERVAIS, V.-CHAIR	✓		
REP. ERNEST BERGSAGEL			✓
REP. ROBERT CLARK	✓		
REP. JANE DEBRUYCKER	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. GARY FELAND	✓		
REP. MIKE FOSTER	✓		
REP. PATRICK GALVIN	✓		
REP. DICK KNOX	✓		
REP. DON LARSON	✓		
REP. SCOTT MCCULLOCH	✓		
REP. JIM MADISON	✓		
REP. LINDA NELSON	✓		
REP. DON STEPPLER	✓		
REP. HOWARD TOOLE	✓		
REP. ROLPH TUNBY	✓		
REP. BARRY "SPOOK" STANG, CHAIRMAN	✓		

HOUSE STANDING COMMITTEE REPORT

January 15, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation  
report that House Bill 98 (first reading copy -- white) do  
pass.

Signed: \_\_\_\_\_  
Barry Stang, Chairman

# HOUSE STANDING COMMITTEE REPORT

January 15, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 23 (first reading copy -- white) do pass.

Signed: \_\_\_\_\_  
Barry Stang, Chairman

C. J. Johnson  
1-16-91 1:10 PM  
BH

HOUSE STANDING COMMITTEE REPORT

January 16, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 48 (first reading copy -- white) do pass as amended.

Signed: \_\_\_\_\_  
Barry Stang, Chairman

And, that such amendments read:

1. Title, line 5.

Strike: "CAR"

Insert: "TRUCK"

2. Title, line 6.

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 1, lines 10 and 11.

Page 2, lines 9, 21, and 23.

Page 3, lines 2, 4, 8, 11, 15, and 20.

Page 4, lines 5, 8, and 10.

Strike: "car"

Insert: "truck"

4. Page 1, line 24 through page 2, line 3.

Following: line 23

Strike: line 24 through "section." on page 2, line 8

5. Page 4, line 8.

Following: line 7

Insert: "(2) The operator of a commercial tow truck used for the purpose of rendering assistance to other vehicles shall, when the rendering of assistance necessitates the obstruction of any portion of the roadway outside a business or residence district, place a highway warning sign as required in subsection (1)(b):

(a) in an area in which the posted speed limit is 45 miles an hour or less, not less than 450 feet in advance of the disabled vehicle and an equal distance to the rear of the disabled vehicle; and

(b) in an area in which the posted speed limit is more than 45 miles an hour, 600 feet in advance of the disabled vehicle and an equal distance to the rear of the disabled vehicle."

Renumber: subsequent subsection

6. Page 4, line 13.

Following: line 12

Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval."



HB 59

EXHIBIT

DATE

1-15-91

HB 59

§391.15-§391.25

section. *Exception.* The period of disqualification is 6 months if the conviction or forfeiture of bond or collateral solely concerned the transportation or possession of substances named in paragraph (c)(2)(iii) of this section.

(ii) *Subsequent offenders.* A driver is disqualified for 3 years after the date of his conviction or forfeiture of bond or collateral if, during the 3 years preceding that date, he was convicted of, or forfeited bond or collateral upon a charge of, an offense that would disqualify him under the rules in this section.

## SUBPART C — BACKGROUND AND CHARACTER

### §391.21 Application for employment.

(a) Except as provided in Subpart G of this part, a person shall not drive a motor vehicle unless he has completed and furnished the motor carrier that employs him with an application for employment that meets the requirements of paragraph (b) of this section.

(b) The application for employment shall be made on a form furnished by the motor carrier. Each application form must be completed by the applicant, must be signed by him, and must contain the following information:

(1) The name and address of the employing motor carrier;

(2) The applicant's name, address, date of birth, and social security number;

(3) The addresses at which the applicant has resided during the 3 years preceding the date on which the application is submitted;

(4) The date on which the application is submitted;

(5) The issuing State, number, and expiration date of each unexpired motor vehicle operator's license or permit that has been issued to the applicant;

(6) The nature and extent of the applicant's experience in the operation of motor vehicles, including the type of equipment (such as buses, trucks, truck tractors, semitrailers, full trailers, and pole trailers) which he has operated;

(7) A list of all motor vehicle accidents in which the applicant was involved during the 3 years preceding the date the application is submitted, specifying the date and nature of each accident and any fatalities or personal injuries it caused;

(8) A list of all violations of motor vehicle laws or ordinances (other than violations involving only parking) of which the applicant was convicted or forfeited bond or collateral during the 3 years preceding the date the application is submitted;

(9) A statement setting forth in detail the facts and circumstances of any denial, revocation, or suspension of any license, permit, or privilege to operate a motor vehicle that has been issued to the applicant, or a statement that no such denial, revocation, or suspension has occurred;

(10) A list of the names and addresses of the applicant's employers during the 3 years preceding the date the application is submitted, together with the dates he was employed by, and his reason for leaving the employ of, each employer;

(11) For those drivers applying to operate a commercial motor vehicle as defined by Part 383 of this subchapter, a list of the names and addresses of the applicant's employers during the 7-year

period preceding the 3 years contained in paragraph (b)(10) of this section for which the applicant was an operator of a commercial motor vehicle, together with the dates of employment and the reasons for leaving such employment;

(12) The following certification and signature line, which must appear at the end of the application form and be signed by the applicant:

This certifies that this application was completed by me, and that all entries on it and information in it are true and complete to the best of my knowledge.

(Date)

(Applicant's Signature)

(c) A motor carrier may require an applicant to provide information in addition to the information required by paragraph (b) of this section on the application form.

(d) Before an application is submitted, the motor carrier shall inform the applicant that the information he provides in accordance with paragraph (b)(10) of this section may be used, and the applicant's prior employers may be contacted, for the purpose of investigating the applicant's background as required by §391.23.

### §391.23 Investigation and inquiries.

(a) Except as provided in Subpart G of this part, each motor carrier shall make the following investigations and inquiries with respect to each driver it employs, other than a person who has been a regularly employed driver of the motor carrier for a continuous period which began before January 1, 1971:

(1) An inquiry into the driver's driving record during the preceding 3 years to the appropriate agency of every State in which the driver held a motor vehicle operator's license or permit during those 3 years; and

(2) An investigation of the driver's employment record during the preceding 3 years.

(b) The inquiry to State agencies required by paragraph (a)(1) of this section must be made within 30 days of the date the driver's employment begins and shall be made in the form and manner those agencies prescribe. A copy of the response by each State agency, showing the driver's driving record or certifying that no driving record exists for that driver, shall be retained in the carrier's files as part of the driver's qualification file.

(c) The investigation of the driver's employment record required by paragraph (a)(2) of this section must be made within 30 days of the date his employment begins. The investigation may consist of personal interviews, telephone interviews, letters, or any other method of obtaining information that the carrier deems appropriate. Each motor carrier must make a written record with respect to each past employer who was contacted. The record must include the past employer's name and address, the date he was contacted, and his comments with respect to the driver. The record shall be retained in the motor carrier's files as part of the driver's qualification file.

### §391.25 Annual review of driving record.

Except as provided in Subpart G, of this part, each motor carrier shall, at least once every 12 months, review the driving record of each driver it employs to determine whether that driver meets minimum requirements for safe driving or is disqualified to drive a motor vehicle pursuant to

**§391.15. In reviewing a driving record, the motor carrier must consider any evidence that the driver has violated applicable provisions of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations. The motor carrier must also consider the driver's accident record and any evidence that the driver has violated laws governing the operation of motor vehicles, and must give great weight to violations, such as speeding, reckless driving, and operating while under the influence of alcohol or drugs, that indicate that the driver has exhibited a disregard for the safety of the public.**

A note, setting forth the date upon which the review was performed and the name of the person who reviewed the driving record, shall be included in the driver's qualification file.

**§391.27 Record of violations.**

(a) Except as provided in Subpart G of this part, each motor carrier shall, at least once every 12 months, require each driver it employs to prepare and furnish it with a list of all violations of motor vehicle traffic laws and ordinances (other than violations involving only parking) of which the driver has been convicted or on account of which he has forfeited bond or collateral during the preceding 12 months.

(b) Each driver shall furnish the list required in accordance with paragraph (a) of this section. If the driver has not been convicted of, or forfeited bond or collateral on account of, any violation which must be listed, he shall so certify.

(c) The form of the driver's list or certification shall be prescribed by the motor carrier. The following form may be used to comply with this section:

(d) The motor carrier shall retain the list or certificate required by this section, or a copy of it, in its files as part of the driver's qualification file.

(e) Drivers who have provided information required by §383.31 of this subchapter need not repeat that information in the annual list of violations required by this section.

## SUBPART D — EXAMINATIONS AND TESTS

**§391.31 Road test.**

(a) Except as provided in §§391.33, 391.61, and 391.67 a person shall not drive a motor vehicle unless he has first successfully completed a road test and has been issued a certificate of driver's road test in accordance with this section.

(b) The road test shall be given by the motor carrier or a person designated by it. However, a driver who is a motor carrier must be given the test by a person other than himself. The test shall be given by a person who is competent to evaluate and determine whether the person who takes the test has demonstrated that he is capable of operating the vehicle, and associated equipment, that the motor carrier intends to assign him.

(c) The road test must be of sufficient duration to enable the person who gives it to evaluate the skill of the person who takes it at handling the motor vehicle, and associated equipment, that the motor carrier intends to assign to him. As a minimum, the person who takes the test must be tested, while operating the type of motor vehicle the motor carrier intends to assign him, on his skill at performing each of the following operations:

(1) The pretrip inspection required by §392.7 of this subchapter;

(2) Coupling and uncoupling of combination units, if the equipment he may drive includes combination units;

(3) Placing the vehicle in operation;

(4) Use of the vehicle's controls and emergency equipment;

(5) Operating the vehicle in traffic and while passing other vehicles;

(6) Turning the vehicle;

(7) Braking, and slowing the vehicle by means other than braking; and

(8) Backing and parking the vehicle.

(d) The motor carrier shall provide a road test form on which the person who gives the test shall rate the performance of the person who takes it at each operation or activity which is a part of the test. After he completes the form, the person who gave the test shall sign it.

(e) If the road test is successfully completed, the person who gave it shall complete a certificate of driver's road test in substantially the form prescribed in paragraph (f) of this section.

[illegible]

**Testimony before House Highways and Transportation  
Committee on HB 59 by Charles W. Walk, Executive Director,  
Montana Newspaper Association.  
1-15-91**

Although we oppose HB 59 on the principle that it would eliminate – not just hinder – public access to information about the driving records of all individuals, we believe we have an alternative which might ease some of our concerns and also accomplish most of the aims of the sponsor of HB 59.

We suggest the bill be amended to return to the original language of Section 1 and Section 2 of 61-11-105, with an amendment to Section 2 which would:

1. Make it mandatory for the department to record all requests for information about individual licensees, include that information in any file of the individual licensees, and,
2. Send a copy of the information request and the information provided to the individual licensee within five working days of the request.

We believe this amendment to existing legislation would be acceptable to all legitimate individuals and organizations seeking information from driving license records. We also believe the amendment would inform individual licensees about requests about their driving records and who is making such requests.

Without these changes in HB 59, as drafted, we believe it is legislation which unnecessarily restricts public access to information that should be at its disposal and we will oppose it on that basis.

It should be pointed out and stressed that we are not talking about information that involves any constitutional right of the individual. Driving licenses are granted as a **privilege** and the public should have unrestricted access to any and all information of that nature.

HB 23-Cody.

EXHIBIT 3  
DATE 1-15-91  
HB 23

WITNESS STATEMENT

NAME Kay Norenberg BUDGET \_\_\_\_\_

ADDRESS \_\_\_\_\_

WHOM DO YOU REPRESENT? Woman Involved In Farm Economics

SUPPORT ☒ OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

COMMENTS: \_\_\_\_\_

More & more farmers using the  
key lock system as theft is becoming  
more common.

Under ground storage and top of  
the ground storage may someday be  
a thing of the past for farmers.  
Farm vehicles use this gas so should  
get refunds.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

EXHIBIT 4  
DATE 1-15-91  
HB 418

Amendments to House Bill No. 48  
First Reading Copy

Requested by Representative Grady  
For the Committee on Highways and Transportation

Prepared by Paul Verdon  
January 14, 1991

1. Title, line 5.  
Strike: "CAR"  
Insert: "TRUCK"
2. Page 1, line 10.  
Strike: "car"  
Insert: "truck"
3. Page 1, line 11.  
Strike: "car"  
Insert: "truck"
4. Page 1, line 24 through page 2, line 8.  
Strike: page 1, line 24 through page 2, line 7 in their entirety  
and line 8 through "section."
5. Page 2, line 9.  
Strike: "car"  
Insert: "truck"
6. Page 2, line 21.  
Strike: "car"  
Insert: "truck"
7. Page 3, line 2.  
Strike: "car"  
Insert: "truck"
8. Page 3, line 4.  
Strike: "car"  
Insert: "truck"
9. Page 3, line 8.  
Strike: "car"  
Insert: "truck"
10. Page 3, line 11.  
Strike: "car"  
Insert: "truck"
11. Page 3, line 15.  
Strike: "car"  
Insert: "truck"
12. Page 3, line 20.

EXHIBIT

4

DATE

1-15-91

HB

48

Strike: "car"  
Insert: "truck"

13. Page 4, line 8.

Following: line 7

Insert: "(2) The operator of a commercial tow truck used for the purpose of rendering assistance to other vehicles shall, when the rendering of assistance necessitates the obstruction of any portion of the roadway outside a business or residence district, place a highway warning sign as required in subsection (1)(b):

(a) in an area in which the posted speed limit is 45 miles an hour or less, not less than 450 feet in advance of the disabled vehicle and an equal distance to the rear of the disabled vehicle; and

(b) in an area in which the posted speed limit is more than 45 miles an hour, 600 feet in advance of the disabled vehicle and an equal distance to the rear of the disabled vehicle."

Renumber: subsequent subsection

14. Page 4, line 8

Strike: "car"  
Insert: "truck"

15. Page 4, line 10.

Strike: "car"  
Insert: "truck"

MEMORANDUM

TO: Distribution  
FROM: Gregory A. Jackson, P.E., Manager  
Traffic Unit  
RE: Signing Required for Wrecker Operation  
DATE: January 6, 1989

A design is attached of the approved sign to be used for wrecker operations. Signs mounted on portable stands are to be a minimum size of 36"x36" with reflectorized orange background, black border and legend stating "Wrecker Ahead".

Presently a wide variety of messages, sign colors and shapes are being used for this purpose. Those signs shall be replaced by the standard sign described herein. We recommend a three-year grace period prior to enforcement of the requirement for proper signing if signs being used are reflective for night time use. If not reflective, signs should be replaced immediately.

Signs should be placed a minimum 450' (within 55 mph zones) in advance of a normal work site in each direction prior to commencement of operations (State law specifies signs shall be placed 200' in advance, which is in violation of the MUTCD). In the event vehicles awaiting passage through the worksite queue up beyond the signs, then signs should be moved to provide adequate warning for a safe stop at the trailing end of the queue.

Please make a distribution of the letter and design that will ensure implementation prior to January 1, 1991. If anyone has comments or questions about this standard, contact me at 444-6170 or Gerald Knudson at 444-6222.

**ESS-1 & 2 Emergency Sign System**

Accident avoidance is best achieved through advance warning. Our Emergency Sign System gives motorists advance warning of a problem ahead and that means extra protection for you.

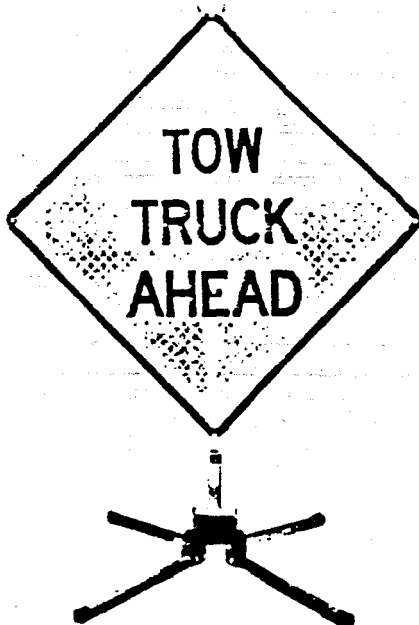
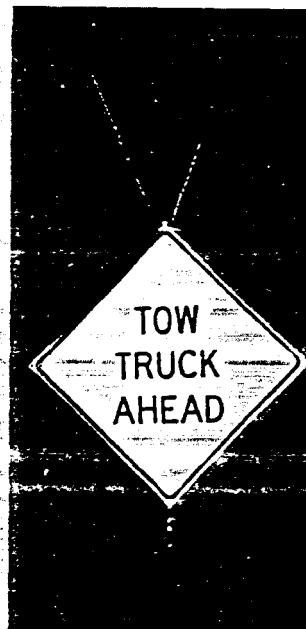
The sign itself is a highly reflective orange, 36" Reflexite panel. This is supported by an amazing energy absorbing base which enables the system to withstand 50 MPH wind gusts effortlessly. The system sets up or breaks down in one minute, it requires no tools and it collapses compactly enough to store behind a bench seat or in a tool box. The ESS-1 & 2 includes two safety flags and a heavy duty sign storage bag. Day or night these signs will get noticed and we've kept the wording simple so they're easy to read and understand.

ESS-1 Emergency Sign System \$149.95  
with "Tow Truck Ahead"  
sign (Wt. 24 lbs.)

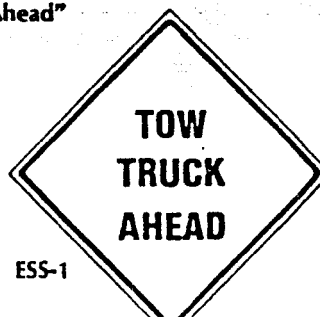
ESS-2 Emergency Sign System \$149.95  
with "Accident Ahead"  
sign (Wt. 24 lbs.)



Simple to set up and take down. Compact and lightweight for easy storage. The most reflective sign available.



Give yourself an extra margin of safety  
by giving motorists advance warning.



ESS-1



ESS-2

EXHIBIT 6  
DATE 1-15-91  
HB 418

MONTANA DEPARTMENT OF HIGHWAYS  
Helena, Montana 59620

RECEIVED HDQ

JAN 11 1989

MONT. HIGHWAY PATROL

MEMORANDUM

TO: Distribution

FROM: *WJG* Gregory A. Jackson, P.E., Manager  
Traffic Unit

RE: Signing Required for Wrecker Operation

DATE: January 6, 1989

A design is attached of the approved sign to be used for wrecker operations. Signs mounted on portable stands are to be a minimum size of 36"x36" with reflectorized orange background, black border and legend stating "Wrecker Ahead".

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Signs should be placed a minimum 450' (within 55 mph zones) in advance of a normal work site in each direction prior to commencement of operations (state law specifies signs shall be placed 200' in advance, which is in violation of the MUTCD). In the event vehicles awaiting passage through the worksite queue up beyond the signs, then signs should be moved to provide adequate warning for a safe stop at the trailing end of the queue.

Please make a distribution of this letter and design that will ensure implementation prior to January 1, 1991. If anyone has comments or questions about this standard, contact me at 444-617 or Gerald Knudson at 444-6222.

GAJ:GK:cm:5/e-2

Attachments

cc: District Engineers  
Colonel Robert Landon  
Don Gruel  
Al Goke



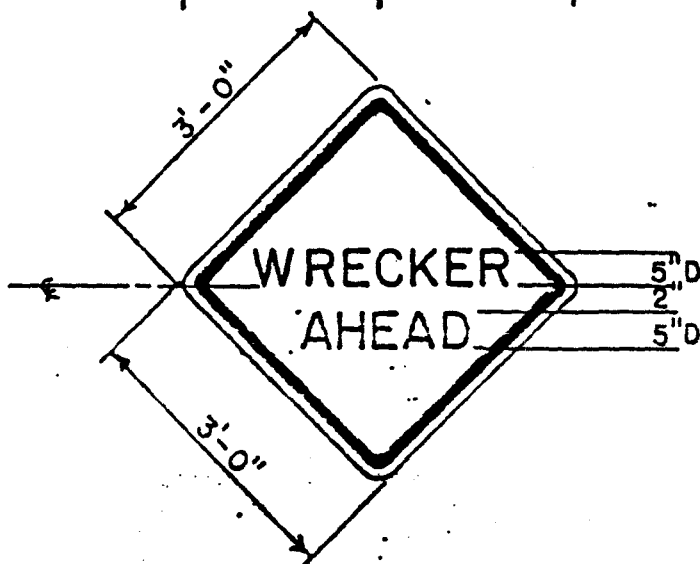


EXHIBIT 7  
DATE 1-15-91  
HB 48

LINE 1			LINE 2			LINE 3			LINE 4			SPEC'S.
MSG. SPACE	LETTER		MSG. SPACE	LETTER		MSG. SPACE	LETTER		MSG. SPACE	LETTER		SIGN NO.
	WIDTH	HEIGHT		WIDTH	HEIGHT		WIDTH	HEIGHT		WIDTH	HEIGHT	STA.
W	5.32	5"U.C.	A	5.13	5"U.C.							W23-1
R	4.53	1	H	4.53	1							
E	3.99	1	E	3.37	1							PAVL. MAT'L.
C	4.30	1	A	5.13	1							SHT
K	4.38	1	D	3.36	1							WIDTH
E	3.99	1										<u>3' 0"</u>
R	3.36	1										HEIGHT
												AREA
												<u>9.0</u> Sq. Ft.
												MARGIN
												<u>5/8"</u>
												BORDER
												<u>7/8"</u>
												CORNER R
												<u>2 1/4"</u>
												BACKGROUND
												COLOR
												<u>ORANGE</u>
												REFL. "A"
												<u>REFL. "B"</u>
												LETTER SERIES
												<u>D</u>
												LETTER TYPE
												ARROW TYPE
												ARROW SIZE
TOTAL			TOTAL			TOTAL			TOTAL			DESIGNED <u>JHC</u>
TEMP	29.87		TEMP	21.82		TEMP			TEMP			DATE <u>1/9/89</u>
LEFT			LEFT			LEFT			LEFT			CHECKED <u>...</u>
EDGE			EDGE			EDGE			EDGE			DATE <u>1-9-89</u>
RIGHT			RIGHT			RIGHT			RIGHT			
EDGE			EDGE			EDGE			EDGE			
SIGN			SIGN			SIGN			SIGN			
WIDTH	36.00		WIDTH	36.00		WIDTH			WIDTH			

EXHIBIT 8  
DATE 1-15-91  
HB 32

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL VOTE

DATE 1-15-91 BILL NO. 32 NUMBER       

MOTION: Rep Clark Motioned to Table HB 32  
Failed 4-12. Motion was made to Reverse  
the Vote to Do Not Pass. Motion Carried  
12-4 for a Do Not Pass motion.

NAME	AYE	NO
REP. FLOYD "BOB" GERVAIS, VICE-CHAIRMAN	<u>Absent</u>	
REP. ERNEST BERGSAGEL	<u>✓</u>	
REP. ROBERT CLARK		<u>✓</u>
REP. JANE DEBRUYCKER		<u>✓</u>
REP. ALVIN ELLIS, JR.		<u>✓</u>
REP. GARY FELAND		<u>✓</u>
REP. MIKE FOSTER		<u>✓</u>
REP. PATRICK GALVIN		<u>✓</u>
REP. DICK KNOX	<u>✓</u>	
REP. DON LARSON	<u>✓</u>	
REP. SCOTT MCCULLOCH		<u>✓</u>
REP. JIM MADISON	<u>✓</u>	
REP. LINDA NELSON		<u>✓</u>
REP. DON STEPPLER		<u>✓</u>
REP. HOWARD TOOLE		<u>✓</u>
REP. ROLPH TUNBY		<u>✓</u>
REP. BARRY "SPOOK" STANG, CHAIRMAN		<u>✓</u>
TOTAL	<u>4</u>	<u>12</u>

EXHIBIT 9  
DATE 1-15-91  
HB 23

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL VOTE

DATE 1-23-91 BILL NO. 23 NUMBER       

MOTION: Do PASS Carried 14-2

NAME	AYE	NO
REP. FLOYD "BOB" GERVAIS, VICE-CHAIRMAN	Absent	
REP. ERNEST BERGSAGEL		✓
REP. ROBERT CLARK	✓	
REP. JANE DEBRUYCKER	✓	
REP. ALVIN ELLIS, JR.	✓	
REP. GARY FELAND	✓	
REP. MIKE FOSTER	✓	
REP. PATRICK GALVIN	✓	
REP. DICK KNOX	✓	
REP. DON LARSON	✓	
REP. SCOTT MCCULLOCH	✓	
REP. JIM MADISON	✓	
REP. LINDA NELSON	✓	
REP. DON STEPPLER	✓	
REP. HOWARD TOOLE	✓	
REP. ROLPH TUNBY	✓	
REP. BARRY "SPOOK" STANG, CHAIRMAN		✓
TOTAL	14	2

## VISITORS' REGISTER

COMMITTEE

BILL NO.

DATE \_\_\_\_\_

SPONSOR

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS  
Hewings

BILL NO.

DATE \_\_\_\_\_

SPONSOR

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' *Hivings*

BILL NO. 48

DATE 1/15/91

SPONSOR Grady

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

COMMITTEE

BILL NO.

DATE \_\_\_\_\_

SPONSOR

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.