

**MINUTES**

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

**COMMITTEE ON HIGHWAYS & TRANSPORTATION**

Call to Order: By **CHAIRMAN BARRY STANG**, on January 31, 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 Stepler (D)  
Howard Toole (D)  
Rolph Tunby (R)

**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 301**

**Presentation and Opening Statement by Sponsor:**

**REP. DAVID WANZENRIED**, House District 7, Kalispell, presented HB 301, which repeals and changes two sections of law: 1) eliminate the durational residency requirement. The Supreme Court has consistently ruled that durational residence requirements were unconstitutional. The Montana statute had not been challenged thus far. The bill would require residency in Montana, but for no specific duration, to qualify as a Highway Patrolman; and 2) the section being repealed (line 25) is the existing section of law requiring vacancies in the Highway Patrol be filled equally from the five highway districts. The Department of Justice believed this section should be repealed and vacancies filled on the basis of the most qualified people in the state. **EXHIBIT 1**

Proponents' Testimony:

Peter Funk, Attorney General's Office, recommended the change in the bill exactly as stated by REP. WANZENRIED. Positions requiring durational residency had routinely been found unconstitutional by the U.S. Supreme Court. The residency requirement is not eliminated, only the durational aspect. The section to be repealed is the current mandate that the highway patrol be hired on a geographical basis rather than a qualification rating system. The patrol's ability to hire the most qualified was being limited. EXHIBIT 2

Opponents' Testimony: None.

Questions From Committee Members: None

Closing by Sponsor:

REP. WANZENRIED urged the committee to support HB 301.

HEARING ON HB 133

Presentation and Opening Statement by Sponsor:

REP. PATRICK GALVIN, House District 40, Great Falls, said that some trucks and school buses are not stopping at railroad crossings due to a misinterpretation that railroad crossings are considered the same as street car crossings. This bill clarifies the situation and states that these vehicles must stop at all railroad crossings. EXHIBIT 3

Proponents' Testimony:

Richard Flinck, Montana Operation Lifesaver Chairman Coordinator, member National Operation Lifesaver 1992 National Symposium Planning Board, National Operation Lifesaver Program Development Council, locomotive engineer Burlington Northern Railroad stated that the lifesaver program was a safety coalition with members from state and federal government agencies, various safety groups, the railroads operating in Montana and other organizations concerned with safety at the more than 4000 railroad/highway grade crossings in Montana. The goal of the program is to reduce and hopefully eliminate collisions between motor vehicles and trains through education, engineering and enforcement. EXHIBIT 4

Ellen Bourgeau, Montana PTA, Missoula, supported the bill on behalf of 10,000 members. The current law is unclear. EXHIBIT 5

Glenna Wortman-Obie, Triple A Montana, Operation Lifesaver, spoke in favor of HB 133.

Joseph Kuglin, Montana Operation Lifesaver, Locomotive Engineer,

**Great Falls, MT** said he has given talks across the state to school bus drivers. The laws governing the crossing of railroad lines given to them are very unclear and confusing. The passage of this bill should clarify this. The drivers want something definite. **EXHIBIT 6**

**Don Fenton, engineer, Clancy, MT,** said he is employed in highway safety and supports the HB 133. **EXHIBIT 7**

**Gail Gray, Office of Public Instruction** spoke for Superintendent Keenan who wished to go on record in support of House Bill 133. She believed the passage of the bill is important to the safety of the children in Montana.

**Donna Hall, Hall Transit school buses, Helena and Great Falls,** supports HB 133. Ms. Hall knew the importance of having the laws clearly defined for all school buses and all railroad crossings, controlled or uncontrolled. **EXHIBIT 8**

**Bruce McCandless, Assistant City Administrator, Billings,** distributed a handout. **EXHIBIT 9**

**Wayne Budt, Public Service Commission,** stated that the commission was in charge with rail safety and wanted the record to show their support for the bill.

**James Mular, Chairman Montana Joint Railway Legislative Council,** said that the members of the Railroad Locomotive Engineers, United Transportation Union, Transportation Communications Union, and the Brotherhood of Railway. He said the bill is a good one and it should be passed.

**Matt Pepas, Cascade, MT,** supported the bill. As a school bus driver and railroad worker, the bill should be passed.

**Opponents' Testimony: None**

**Questions From Committee Members:**

**REP. LARSON** asked **REP. GALVIN** if the bill applied to logging trucks. **REP. GALVIN** said yes.

**REP. CLARK** asked **Mr. Flinck** if the bill applied to taxi cabs, limousines. **Mr. Flinck** said that taxi cabs and limousines are under a section of federal law which states that any vehicle carrying seven or less passengers are exempt.

**REP. TUNBY** asked **REP. GALVIN** what are the changes in the bill. **REP. GALVIN** replied that the big change was to eliminate not having to stop at street car crossings. All bus drivers and trucks must stop at all railroad crossings.

**CHAIRMAN STANG** asked **Mr. Fenton,** referring to **REP. CLARK'S** question page 1, line 25 and page 2, lines 1,2,3, "except as

provided in subsection 2 (b), the driver of any motor vehicle carrying passengers for hire", if he could give the committee the number of passengers the federal government requires. Mr. Fenton said that the Motor Carrier Safety Regulations indicate a limited number, he thought it was seven.

**Closing by Sponsor:**

REP. GALVIN thanked the committee for a good hearing. He hoped they would consider the safety of this bill and give it a do pass.

**HEARING ON HOUSE BILL 63**

**Presentation and Opening Statement by Sponsor:**

CHAIRMAN BARRY STANG, House District 52, St. Regis, presented the bill at the request of the Montana Public Service Commission. It concerns the amending of the existing statute to reflect more clearly prior legislative intent in distinguishing Class B and Class C motor carriers.

**Proponents' Testimony:**

Wayne Budt, Montana Public Service Commission, Administrator Transportation Division, stated the two classes of concern are: 1) Class B is a common carrier which operates for the general public under filed rates with the PSC; and 2) Class C operates under contract with the people for whom they are hauling. The current statute is interpreted and enforced by PSC to mean that Class C carriers have a limited number of contracts. This bill clarifies the definition of Class C carriers.

EXHIBIT 10

**Opponents' Testimony:** None

**Questions From Committee Members:**

REP. FELAND asked Mr. Budt to give a definition of an contract. Mr. Budt said a contract is made with someone who had one movement or a group of movements and will pay the freight for those movements.

REP. LARSON asked if a Class C carrier had six contracts and was offered a seventh contract, the carrier could not accept that contract unless he became a Class B carrier. Mr. Budt replied that is correct. The carrier would be acting illegally if the contract was accepted.

REP. FOSTER asked if the bill doesn't change the way the law has been enforced. Mr. Budt said yes. The bill clarifies the current bill.

REP. STEPLER asked if the bill would apply to hauling salt water

in a oil operation. Mr. Budt said it would if that is the type of authority they have. It is the carrier's decision as to which type of authority they apply for.

REP. BERGSAGEL wanted to know if this applied to grain haulers hauling for three different individuals. Mr. Budt said that grain is not a commodity.

Closing by Sponsor:

CHAIRMAN STANG thanked the committee for a good hearing and hoped the committee could see the necessity of the bill.

HEARING ON HOUSE BILL 61

Presentation and Opening Statement by Sponsor:

REP. BARRY STANG, House District 52, St. Regis, said that HB 61 changes the speed limit on interstate highways for trucks from 65 MPH to 60 MPH. Some trucks have been driving at speeds greater than 65 MPH when passing cars, especially on snowy highways, and create white-outs. In the Spring, cars in the right lane frequently have broken windshields because of the gravel tossed up by excessive speed of passing trucks. Over one-third of the accidents between cars and trucks is due to speed too fast for road conditions, careless driving, or exceeding the posted speed. Many trucks on the highway weigh at least 80,000 lbs and are doing 80 MPH, and nothing is being done about it.

Proponents' Testimony: None

Opponents' Testimony: .

Tom Harwood, self, said he had one objection to the bill. He has several grain trucks, and thought the bill was discriminatory. His close calls in driving were due to people driving too slowly.

Questions From Committee Members:

REP. LARSON asked if HB 61 would require a fiscal note in view of the probable change in signs. CHAIRMAN STANG said it would and the committee could get that information.

REP. LARSON asked if the speed limits are regulated around all urban areas in Montana to 55 MPH. CHAIRMAN STANG replied that cities over 50,000 require the 55 MPH. There are three in the state: Billings, Missoula, and Great Falls.

REP. LARSON asked if the federal government had recommendations for speed limits on primary systems. Col. Griffith believed their recommendations are to reduce the speed limit.

REP. TOOLE asked Col. Griffith his opinion of the bill. Col. Griffith responded that it was better to have all drivers

operating under the same speed parameters, rather than one speed for trucks, another for cars, etc.

REP. TUNBY noted that if trucks exceed the speed limits now by 10-15 MPH, what could be expected if the speed limit was lowered to 60 MPH for trucks. CHAIRMAN STANG said maybe they will drop it down to 75 MPH. He said that a fine for a truck exceeding the speed limit is different than a car.

REP. FELAND asked if this was not more of an enforcement situation rather than dropping the speed limit by 5 MPH. CHAIRMAN STANG agreed.

REP. LARSON suggested an alternative. Reduce the size of cities to 20,000 for limiting speed on the highway. CHAIRMAN STANG said that cannot be done because the 50,000 population city is a federal law, but the whole speed limit could be lowered in Montana.

REP. FELAND asked Col. Griffith what was the fine for a speeding truck. Col. Griffith replied the fine would be \$10 to 100 dollars and would go on his driver record.

#### Closing by Sponsor:

CHAIRMAN STANG said he meant no offense, but he did not believe the highway patrol has enforced the law well enough. They may be short staffed or lack good equipment which hinders the enforcement. His own experience with extensive state travel indicated that the passing trucks are mostly out-of-state trucks trying to get out of Montana as fast as possible. Triple trailers should not exceed 60 MPH because they have a 55 MPH speed limit. The national and local companies which do business in this state have done a very good job of policing themselves and should be commended. The trucks from out-of-state disregard the laws and the highways of this state. The accidents that happened in CHAIRMAN STANG's area are caused by people from out-of-state.

#### Informational Testimony:

CHAIRMAN STANG discussed placing HB 263 into a subcommittee. It is REP. DRISCOLL'S bill that deals with the garbage haulers. It will make a Class E authority for the pick up of recyclable material. He said it would be best to make HB 263 a gray bill. The amendments that were offered will be merged into the bill.

REP. FELAND said if the bill were adopted as written, it will not do what REP. DRISCOLL intended it to do. The kids will not be able to do this if they have to apply for a Class E license.

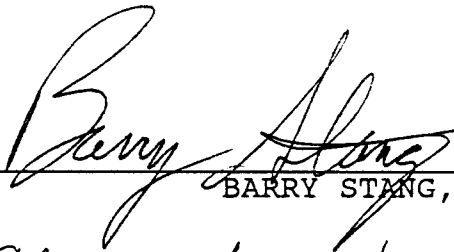
CHAIRMAN STANG asked REP. LARSON to be the chairman of the subcommittee, and REP. MCCULLOCH and REP. FELAND will work with him.


**CHAIRMAN STANG** discussed HB 250, **REP. HARPER'S** bill. The bill addresses video training for the renewing of driver's license. **CHAIRMAN STANG** didn't think this needed to be placed in a subcommittee, but asked the committee if they would agree to the handout that was distributed by the department and add it to the bill as proposed with those amendments and work on it that way. **CHAIRMAN STANG** said he had received a call from the deaf and blind school in Great Falls, and had also spoken with a deaf person. They are concerned with the video. It would be expensive and they would need to have it closed captioned.

**EXHIBIT 10**

**ADJOURNMENT**

Adjournment: 4:30 p.m.

  
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BARRY STANG, Chair

  
\_\_\_\_\_  
CLAUDIA JOHNSON, Secretary

BS/cj

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL

DATE

1-31-91

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 STEPLER	✓		
REP. HOWARD TOOLE	✓		
REP. ROLPH TUNBY	✓		
REP. BARRY "SPOOK" STANG, CHAIRMAN	✓		



**44-1-402. Appointment of supervisory personnel.** Supervisory personnel shall be selected from the patrol officers by the chief. The chief shall designate supervisory personnel, including but not limited to captains, lieutenants, sergeants, and patrol officers, in such numbers as necessary but within the limits of the legislative appropriation made available for such purposes.

History: En. Sec. 5, Ch. 199, L. 1943; amd. Sec. 1, Ch. 187, L. 1951; amd. Sec. 1, Ch. 219, L. 1953; amd. Sec. 1, Ch. 268, L. 1955; amd. Sec. 1, Ch. 225, L. 1957; amd. Sec. 1, Ch. 109, L. 1959; amd. Sec. 1, Ch. 55, L. 1967; amd. Sec. 5, Ch. 188, L. 1975; amd. Sec. 1, Ch. 483, L. 1975; amd. Sec. 4, Ch. 343, L. 1977; R.C.M. 1947, 31-105(part); amd. Sec. 4, Ch. 146, L. 1979; amd. Sec. 1, Ch. 217, L. 1989.

**Compiler's Comments**  
1989 Amendment: In two places changed "patrolmen" to "patrol officers".

HB  
301

**44-1-403. Equal number of appointments from each highway district.** Replacements and additions to the highway patrol force shall be chosen in equal numbers from the five highway districts. However, if sufficient qualified applications are not received from any one district, the department of justice may, in its discretion, substitute other qualified applicants from any other districts.

History: En. Sec. 5, Ch. 199, L. 1943; amd. Sec. 1, Ch. 187, L. 1951; amd. Sec. 1, Ch. 219, L. 1953; amd. Sec. 1, Ch. 268, L. 1955; amd. Sec. 1, Ch. 225, L. 1957; amd. Sec. 1, Ch. 109, L. 1959; amd. Sec. 1, Ch. 55, L. 1967; amd. Sec. 5, Ch. 188, L. 1975; amd. Sec. 1, Ch. 483, L. 1975; amd. Sec. 4, Ch. 343, L. 1977; R.C.M. 1947, 31-105(1)(b); amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 102, Ch. 370, L. 1987.

**Cross-References**  
Highway districts. 60-3-203.

**44-1-404. Status of replacements for patrol officers who enter the armed forces.** Patrol officers filling vacancies caused by the incumbents' entrance into the armed forces of the United States shall, on the return of the incumbents, be placed in the patrol reserve without pay, except that they shall hold their probationary or permanent appointments while there are sufficient operating funds. Reserve patrol officers shall be used for future replacements in the permanent patrol.

History: En. Sec. 5, Ch. 199, L. 1943; amd. Sec. 1, Ch. 187, L. 1951; amd. Sec. 1, Ch. 219, L. 1953; amd. Sec. 1, Ch. 268, L. 1955; amd. Sec. 1, Ch. 225, L. 1957; amd. Sec. 1, Ch. 109, L. 1959; amd. Sec. 1, Ch. 55, L. 1967; amd. Sec. 5, Ch. 188, L. 1975; amd. Sec. 1, Ch. 483, L. 1975; amd. Sec. 4, Ch. 343, L. 1977; R.C.M. 1947, 31-105(1)(c); amd. Sec. 1, Ch. 7, L. 1979; amd. Sec. 1, Ch. 217, L. 1989.

**Compiler's Comments**  
1989 Amendment: In two places changed references to patrolmen to references to patrol officers.

**Cross-References**  
Leave of absence of public employee attending training camp, 10-1-604.  
Reemployment of public employee upon completion of service, 10-2-221.

**Part 5**  
**Salaries and Expenses**

**Part Cross-References**  
Highway Patrol Officers' Retirement System.  
Title 19, ch. 6.

**44-1-402. Appointment of supervisory personnel.** Supervisory personnel shall be selected from the patrol officers by the chief. The chief shall designate supervisory personnel, including but not limited to captains, lieutenants, sergeants, and patrol officers, in such numbers as necessary but within the limits of the legislative appropriation made available for such purposes.

History: En. Sec. 5, Ch. 199, L. 1943; amd. Sec. 1, Ch. 187, L. 1951; amd. Sec. 1, Ch. 219, L. 1953; amd. Sec. 1, Ch. 268, L. 1955; amd. Sec. 1, Ch. 225, L. 1957; amd. Sec. 1, Ch. 109, L. 1959; amd. Sec. 1, Ch. 55, L. 1967; amd. Sec. 5, Ch. 188, L. 1975; amd. Sec. 1, Ch. 483, L. 1975; amd. Sec. 4, Ch. 343, L. 1977; R.C.M. 1947, 31-105(part); amd. Sec. 4, Ch. 146, L. 1979; amd. Sec. 1, Ch. 217, L. 1989.

#### Compiler's Comments

1989 Amendment: In two places changed "patrolmen" to "patrol officers".

**44-1-403. Equal number of appointments from each highway district.** Replacements and additions to the highway patrol force shall be chosen in equal numbers from the five highway districts. However, if sufficient qualified applications are not received from any one district, the department of justice may, in its discretion, substitute other qualified applicants from any other districts.

History: En. Sec. 5, Ch. 199, L. 1943; amd. Sec. 1, Ch. 187, L. 1951; amd. Sec. 1, Ch. 219, L. 1953; amd. Sec. 1, Ch. 268, L. 1955; amd. Sec. 1, Ch. 225, L. 1957; amd. Sec. 1, Ch. 109, L. 1959; amd. Sec. 1, Ch. 55, L. 1967; amd. Sec. 5, Ch. 188, L. 1975; amd. Sec. 1, Ch. 483, L. 1975; amd. Sec. 4, Ch. 343, L. 1977; R.C.M. 1947, 31-105(1)(b); amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 102, Ch. 370, L. 1987.

#### Cross-References

Highway districts, 60-3-203.

**44-1-404. Status of replacements for patrol officers who enter the armed forces.** Patrol officers filling vacancies caused by the incumbents' entrance into the armed forces of the United States shall, on the return of the incumbents, be placed in the patrol reserve without pay, except that they shall hold their probationary or permanent appointments while there are sufficient operating funds. Reserve patrol officers shall be used for future replacements in the permanent patrol.

History: En. Sec. 5, Ch. 199, L. 1943; amd. Sec. 1, Ch. 187, L. 1951; amd. Sec. 1, Ch. 219, L. 1953; amd. Sec. 1, Ch. 268, L. 1955; amd. Sec. 1, Ch. 225, L. 1957; amd. Sec. 1, Ch. 109, L. 1959; amd. Sec. 1, Ch. 55, L. 1967; amd. Sec. 5, Ch. 188, L. 1975; amd. Sec. 1, Ch. 483, L. 1975; amd. Sec. 4, Ch. 343, L. 1977; R.C.M. 1947, 31-105(1)(c); amd. Sec. 1, Ch. 7, L. 1979; amd. Sec. 1, Ch. 217, L. 1989.

#### Compiler's Comments

1989 Amendment: In two places changed references to patrolmen to references to patrol officers.

#### Cross-References

Leave of absence of public employee attending training camp, 10-1-604.

Reemployment of public employee upon completion of service, 10-2-221.

## Part 5

### Salaries and Expenses

#### Part Cross-References

Highway Patrol Officers' Retirement System, Title 19, ch. 6.

EXHIBIT 3  
DATE 1-31  
HB 133

Amendments to House Bill No. 133  
First Reading Copy (White)

Requested by Representative Galvin  
For the Committee on Highways and Transportation

Prepared by Valencia Lane  
January 31, 1991

1. Page 2, line 2.  
Following: "bus"  
Insert: "with or without passengers"



EXHIBIT 5  
DATE 1-31-91  
HB 133

Specifically, what we are addressing in this bill are two items that have caused confusion as to whether or not school buses should or should not stop. First of all, is the provision that exempts school buses from stopping at railroad crossings where a traffic control signal governs movement of the crossing. Federal regulations define a traffic control signal as a device that is essentially a stoplight. The misinterpretation has been that some people feel that a grade crossing signal not flashing indicates "proceed." By definition under federal regulations, a grade crossing signal is not a traffic control signal. This bill would clarify that a grade crossing signal is not a traffic control signal. The reason that a grade crossing signal not flashing does not indicate "proceed" is because of the possibility, however remote, of the failure of one of these signals to work while a train is approaching. The facts are, it can happen.

The second area of misinterpretation is contained in Section 1, Paragraph C where it exempts buses from stopping at the "street railway grade crossing." A street railway is a trolley car line, but we find that this section is being misinterpreted to mean a place where a street crosses a railway. That was not the intent of this part, and since there are no trolley car lines left in Montana, this bill would eliminate that reference and therefore that misinterpretation.

Testimony of Richard A. Flink in support of House Bill 133  
238 Lupfer Ave  
Whitefish, MT 59937  
(406)862-4547

EXHIBIT 4  
DATE 1-31-91  
HB 133

Montana Operation Lifesaver State Chairman/Coordinator.  
Member of National Operation Lifesaver Inc. 1992 National Symposium Planning Board.  
Nominated to National Operation Lifesaver Program Development Council.  
Locomotive Engineer for Burlington Northern Railroad.  
Montana Resident and Parent.

Mr Chairman and members of the Committee:

My name is Richard A. Flink. I live in Whitefish MT. I am the Montana Operation Lifesaver State Chairman/Coordinator, A newly appointed member of the National Operation Lifesaver Inc. 1992 National Symposium Planning Board, Nominated to the National Operation Lifesaver Program Development Council, A Locomotive Engineer for the Burlington Northern Railroad, and finally a Montana Resident and Parent. I am here today to speak as a proponent for House Bill 133.

First of all, for those members of the committee who are not familiar with the Operation Lifesaver Program. Operation Lifesaver is a Grass Roots Safety Coalition made up of volunteers from state government agencies, Federal government agencies, different safety groups, the railroads which operate in the state and any other organization or group interested in safety at our states almost 4000 highway/railroad grade crossings. The goal of Operation Lifesaver is to reduce and hopefully eliminate collisions between motor vehicles and trains through Education, Engineering, and Enforcement. We also are involved by seeing that outdated and unclear laws are changed or repealed and seeing that new and better laws are enacted for the safety and protection of our state's citizens. The bill in question today, House Bill 133 is designed to upgrade and clarify an existing law that is currently in force. As a member of the Operation Lifesaver Coalition I make educational presentations to many different types of organizations. One of these groups have been the School Bus Drivers in many different locations in the state. I have yet to make a presentation to one of these groups where there weren't lengthy discussions as to just exactly what the existing law says. There is a considerable amount of confusion as to where and when the busses must stop. This bill should stop this confusion.

I am concerned with the enactment of this bill as a railroad engineer because of my safety and the safety of my fellow railroad employees. We engineers have a saying that we like to tell people. That saying is:

If we hit a gasoline or a propane truck we will never live long enough to tell about it. And if we were to hit a School Bus, we would never live long enough to forget it.

I have been involved in several collisions with vehicles at highway/railroad crossings in my 20 plus years working for the railroad. Since I became an engineer 11 years ago I have had 3 very close calls with school busses not stopping at railroad crossings and 2 close calls with propane trucks not stopping at railroad crossings. I cannot begin to explain to you the feelings you get or the nightmares associated with the collisions or the near misses. This bill would be a major step towards stopping these close calls and future collisions.

And finally I am concerned with the passing of this bill as a resident and a parent. As a resident I am concerned with what would happen to my family and community if a train were to have a collision with a Hazardous Material Carrier such as a gasoline or propane truck. There have been in recent years many news stories on just this subject across our nation. There is always major destruction involved with such collisions, and usually it has occurred as a result of the Haz Mat carrier not stopping and allowing the train the right of way at the crossing. As a parent I have 2 school age children that have ridden and will continue to ride School Busses for different school events. There have not been a great amount of collisions between trains and school busses thank goodness, but when they have occurred the destruction of the bus and the major trauma to the occupants the busses have been phenomenal. We cannot allow even one of these collisions to occur in Montana. The youth of this state are too important to allow this type of collision to ever happen. The passage of House Bill 133 will go along way towards protecting our youth, and the communities of Montana.

Mr. Chairman and members of this committee, I want to thank you for the opportunity to express my support of this bill and ask that you will recommend passage of this most important bill. Thank you.

Richard A. Flink

MONTANA CONGRESS OF

**PTA**

PARENTS AND TEACHERS

Testimony H.B. 133

House Highways and Transportation Committee

EXHIBIT 5

DATE 1-31-91

HB 133

Chairman Stang and Members of the House Highways and Transportation Committee:

I am Ellen Bourgeau, Legislative Coordinator for the Montana Congress of Parents and Teachers. We are commonly known as the Montana PTA and we are the largest child advocacy organization within the state. The National PTA, our parent organization, is the largest child advocacy organization in the nation with 6.8 million members. The welfare and safety of children and youth is at the heart of all we do and advocate. One of our objects is to secure adequate laws for the care and protection of children and youth in our state and nation.

Today I am here on behalf of the 10,000 members I represent to address H.B. 133 as it relates <sup>to</sup> school buses in particular and to ask you to support the amendments to this law.

Our children and youth count on us as adults to give them a safe world in which to live and by amending the existing law we will give added assurance that that world will be a little safer.

The National PTA position statement on bus safety adopted in 1988 reads "...that certain standards and regulations need to be implemented to reduce to the greatest extent possible the danger of death or injury to school children while they are being transported on buses. " These regulations and standards when implemented will do our children no good if the bus they are riding encounters a train at a railroad grade crossing and the bus has not stopped. Obviously, the bus loses.

Laws that govern school bus safety should be precise and in no need of special interpretation. This law as it reads now is open to misinterpretation and is unconscionably UNSAFE! We need to be as clear about driver responsibilities when they approach railroad grade crossings as we can be.

The Montana PTA legislative platform states that we will support legislation that will improve community programs or facilities which will provide maximum protection against... PHYSICAL HAZARDS for children and youth. H.B. 133 does this. Please SUPPORT this bill.

Thank you for your time and attention to this matter.

Ellen Bourgeau  
1111 Eaton  
Missoula, MT 59801  
728-6059

EXHIBIT 6  
DATE 1-31-91  
HB 133

.P012  
= )  
Joseph Kuglin  
= )  
Operation Lifesavers  
= )  
Great Falls, MT

Mr. Chairman  
Members of the Committee

My name is Joseph Kuglin, I am a locomotive engineer and a member of Operation Lifesaver. I am the Great Falls co-ordinator and work very closely with many professional drivers. One outstanding problem I have encountered in this capacity was that our laws governing what drivers must do when they come to Rail-Road Crossings. The laws are very confusing or unclear as to which crossings they must stop at or if indeed do we have to stop at all. In particular the school bus drivers. Many of our state agencies were unclear themselves, resulting in various dangerous and hazardous situations.

These drivers want a clear and decisive law for they feel that they are carrying the most precious possessions we have "our children"

As a locomotive engineer I need ~~not~~ remind you how helpless we are when it is inevitable, ~~also~~ That you are going to crash into a school bus or helpless automobile.

As a driver. I must state we do need more clarity regarding the laws. House bill number 133 gives this opportunity to start to upgrade the necessary laws and clearly spell out what is intended.



EXHIBIT

7

DATE

1-31-91

HB

133

HOUSE BILL # 133  
TESTIMONY BY DON FENTON  
BLUE SKY HEIGHTS #26  
CLANCY, MONTANA 59634 (933-5922)

To Members of the House Highway and Transportation Committee:

This testimony, offered by Don Fenton, is given as an engineer working in Highway Safety, and not as an Official representing the Federal Highway Administration.

As a member of Operation Lifesaver, I urge your support of House Bill #133. We are a nation of risk takers. This risk taking attitude by our society has contributed to the fatalities and injuries from motor vehicle accidents by people failing to use seat belts, driving too fast for conditions, and the 50% fatality rate caused by DUI. Risk taking has also led to increased drug usage and the spread of Aids.

If a school bus driver fails to stop at a railroad crossing, it sends the wrong message to the children. The children assume that the failure to stop at a railroad crossing is an acceptable risk. It is not an acceptable risk. This attitude may carry over into their adult lives, and they may ignore railroad crossings when they are driving. Usually, you do not get a second chance in train-car collision.

At a signalized crossing, the probability of a signal failure is very small. However, vandalism, and mechanical or electrical failures can occur. Many accidental shootings have occurred because a person thought the gun was empty. A bus driver or hazardous materials carrier can't afford the risk of not stopping at a railroad crossing.

This bill will provide uniformity for transportation of passengers and hazardous materials. The present law requires interstate carriers to stop at all railroad crossings while exempting intrastate carriers from stopping at certain crossings. The present law is un-enforceable because a patrolman can't distinguish between an interstate carrier and an intrastate carrier without stopping the vehicle. The present exemption also sends the wrong message to the driving public. People expect to have to stop behind a school bus at a railroad crossing. How can we teach respect for railroad crossings when they are ignored by school bus drivers?

There is some risk of a rear end collision because a driver may fail to observe a bus stopping at a railroad crossing. However, the severity of a rear end collision is much less than that of a train-bus collision.

Passage of this bill will send the right message to the people of Montana. It means you are concerned about the welfare of the community and the safety of school children.

Mr Chairman, Members of the Committee, I am Donna Hall of Hall Transit Co. We own and operate the school buses in Helena and Great Falls. Thank you for your time.

I am here today in support of House bill 133.

As school bus contractors, we feel very strongly that the law should be clearly defined concerning the stopping of all school buses at all RR crossings, controlled or uncontrolled, whether loaded with children or not. Presently the School Districts in Great Falls and Helena are dictating to us that we must stop. The law however, is very unclear on this resulting in confusion among our drivers. Every bus driver should know exactly what is expected of him or her.

Our involvement with "Operation Lifesaver" was the coordination and donation of the school bus used in the train-bus crash demonstration conducted in Great Falls on April 24, 1990. We required that all our drivers attend and I know from talking with them that their reaction was the same as mine. Even though we knew that there were only crash dummies aboard the bus, the moment of impact was the most frightening thing we've ever experienced. It proved to all of us one important fact "Trains can't stop" and was nearly 500 feet before it did. What a horrible thought that it could have been loaded with children.

I feel that the importance of school buses stopping, looking and listening at every crossing can't be stressed enough. In regard for the safety of other drivers, the use of warning lights to signal that the bus is going to stop and the display of "THIS BUS STOPS AT ALL RR CROSSINGS" on the rear of the bus, would greatly reduce the rear-end accidents we experience every year. The general motoring public needs to be aware that school buses always stop, it needs to be a habit. These precautions are not required at this time.

In conclusion, I would like to see the law defined to give the drivers clear understanding of their responsibility, which is the safe transportation of Montanas most precious cargo, our children.

Thank you.



EXHIBIT 9  
 DATE 1-31-91  
 HB 133

## CITY OF BILLINGS

January 31, 1991

ADMINISTRATOR'S OFFICE

P.O. BOX 1178  
 BILLINGS, MT 59103  
 PHONE (406) 657-6433

Representative Barry Stang  
 Members of the House Highways  
 & Transportation Committee  
 State Capitol  
 Helena, Montana 59620

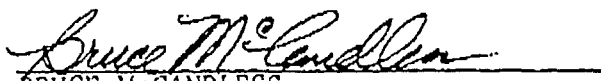
RE: HOUSE BILL 133

The City of Billings offers this letter as testimony opposing HOUSE BILL 133. The bill would eliminate the urban area exemption for certain vehicles required to stop at railroad crossings. The need for the bill isn't supported by statistical evidence and could be counterproductive to safe transportation in our cities and towns.

HOUSE BILL 133 would require vehicles carrying passengers for hire, school buses and vehicles carrying explosives, or flammable liquids, to stop at all railroad crossings, even if protected by a crossing signal. Statistics obtained from the Montana Highway Traffic Safety Division show that from 1985-1989 there have been only 21 train/vehicle accidents on local streets. None of them involved buses and one involved a tractor/trailer. All others involved private vehicles. There were no fatalities. Only 16% of all rail/motor vehicle collisions within the State occurred on local streets. The most obvious reasons for this low incidence is that many urban crossings are protected by signals, train and motor vehicle speeds are usually low and many of the vehicles specified in the present statute voluntarily observe the stop rule whether in a rural or urban setting.

HOUSE BILL 133 would require that vehicles such as taxis, limosines and transit buses stop at railway crossings. While the motoring public may be accustomed to school buses stopping at railway crossings, these other vehicles would actually become hazards due to unanticipated stops. Important, but of lesser concern, would be the additional fuel usage and schedule disruptions which would be caused by HB 133.

We agree that traffic safety, including railway and vehicle crossings, is an important goal. However, HB 133 would not help to accomplish this goal and could cause a worse condition. The City of Billings urges you to oppose HOUSE BILL 133.

  
 BRUCE McCANDLESS  
 ASSISTANT CITY ADMINISTRATOR

BMC:bm  
 cc: Alan Tandy  
 Ken Haag

*P. P.*

EXHIBIT 10  
DATE 1-31-91  
HB 63

HB 63

TESTIMONY OF WAYNE BUDT  
ADMINISTRATOR, TRANSPORTATION DIVISION  
PUBLIC SERVICE COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND CLASS C MOTOR CARRIER CONTRACT PROVISIONS TO REMOVE REFERENCE TO CLASS B CONVERSION: AMENDING SECTION 69-12-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Montana law presently distinguishes Class B and Class C motor carriers. Class B carriers are common carriers, serving the general public upon request, and operating under rates filed with and approved by the Montana Public Service Commission. Class C carriers are contract carriers, serving specific shippers under written contracts with rates negotiated between the carrier and the shipper.

Class C carriers are limited to a maximum of six contracts. Each contract must be for at least 180 days.

The purpose of this bill is to clarify that if a Class C carrier holds more than six contracts, he does not automatically become a Class B carrier. Any proposed change of authority from a Class C to a Class B carrier is an expansion of authority, requiring public notice and an opportunity for hearing. It is not determined by a Class C carrier simply opting to hold more than six contracts and considering himself to be a Class B carrier.

For further information, please contact Wayne Budt, Administrator, Transportation Division, PSC (444-6195)

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

Hiway COMMITTEE BILL NO. AB 301  
DATE 1-31 SPONSOR(S) Rep Wanyerick  
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Peter Funk	MT. Dept. of Justice	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS  
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

Living COMMITTEE BILL NO. HB 133  
DATE 1-31 SPONSOR(S) Rep. Galvin

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>1111 Eaton, Missoula, MT 59801</u> ELLEN BOURGEOIS	MONTANA PTA	✓	
Matt Pezos	Self.	✓	
Donna Hall	Hall Transit	✓	
Pat Klein	Burlington Nov.	✓	
Richard A. Lisk Whitefish MT	Montana Operation Lifesaver	✓	
Joseph W. Kuglin Great Falls, MT	Montana Operation Lifesaver	✓	
Wayne Becht	MPSC	✓	
<u>BLUE SKY HTS. #26</u> DON FENTON CLANCY, MONT.	SELF	✓	
Glenn Wortman-Ohio	AAA Montana and Operation Lifesaver	✓	
JAMES J MULAR	MONT JOINT RAIL LABOR LEGIS. COUNCIL	✓	
Pat Long	OPI	✓	

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HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

Highways COMMITTEE BILL NO. HB 63  
DATE 1-31 SPONSOR(S) Rep Stang  
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>Wayne B...</u>	<u>MPSC</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS  
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HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

Always COMMITTEE BILL NO. HB 61  
DATE 1-31 SPONSOR(S) Rep. Stang  
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>R. G. Buckner</i>	<i>STATE NATROL</i>		
<i>Tom Howwood</i>	<i>Self</i>		<i>X</i>

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS  
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.