

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN BARRY STANG**, on February 21, 1991, at 3: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.

EXECUTIVE ACTION ON HB 352

Discussion: **CHAIRMAN STANG** informed the committee that before a motion is made he had received a letter from **REP. RANEY** addressed to Montana Fish, Wildlife and Parks to pass around for a signature of all the committee members to show their approval. **CHAIRMAN STANG** said if the committee agrees to this letter that HB 352 should be tabled. HB 352 provides tax on dealers license tax proceeds credited to the snowmobile account to minimize environmental consequences. He read the letter; The House Highways and Transportation Committee appreciates the testimony by the Montana Department of FWP regarding HB 352. The bill clarifies the snowmobile money can be used to address

environmental consequences of those facilities. From your testimony, the MFWP is committed to the following points; 1) the environmental impacts of groomed snowmobile trails will be accessed as required by the Montana Environmental policy act; 2) the snowmobile account can be used for all environmental review under MEPA; 3) the dept. can consider environmental mitigation and monitoring to minimize environmental consequence of snowmobile facilities. The snowmobile program can pay for any suggested environmental mitigation and monitoring that FWP is committed to do in a programmatic way in an environmental impact statement on the entire snowmobile program. The House Highways and Transportation Committee has discussed HB 352 with the sponsors. Perhaps if REP. RANEY and proponents of the bill are given the commitments by the dept., they will all agree that it is appropriate to table the bill at this time. We understand that interested parties will be monitoring your snowmobile program to see how well the FWP dept. implements it's commitment to minimize environmental consequences of this program. We anticipate to hear the report during the 1993 legislature to determine if legislation such as HB 352 is needed.

Motion/Vote: REP. BERGSAGEL MOVED HB 352 BE TABLED.

Vote: HB 352 BE TABLED. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HB 144

Motion: REP. FOSTER MOVED HB 144 DO PASS.

Discussion: REP. FOSTER spoke to his motion. He addressed the definition of gasohol. Gasohol is a blend of ethanol and gasoline. He wanted to insert a definition that used to be in the MCA code books, "for purposes of this section gasohol means all products commonly or commercially known or sold as gasohol used for the purpose of effectively and efficiently operating internal combustion engines consisting not less than 10% ethanol produced from agriculture products including wood or wood products".

REP. LARSON said he questioned the necessity of the amendment. He said when they clarify this, they use current language and definitions and wondered which is the current one.

REP. FOSTER said that this definition is agreed on by the Senate in a similar gasohol bill.

CHAIRMAN STANG said this is a new section and the definition is not in the codes at this time. He said what REP. FOSTER is trying to do is to take the new section and change the definition of gasohol that he had in the new section of the bill.

REP. FOSTER said this definition means the same thing, but gives a little more detail.

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Motion/Vote: REP. FOSTER moved amendment to be drafted by Ms. Lane. This amendment replaces the section on page 1, line 1 - 24 with the above definition. Voice vote was to adopt the concept of the amendment. Voice vote was taken. Motion CARRIED unanimously.

Motion/Vote: REP. FOSTER MOVED HB 144 DO PASS AS AMENDED. REP. FOSTER said this bill calls for the use of gasohol on all state owned vehicles, including the highway patrol. REP. FOSTER moved to make a second amendment to include the highway patrol in the bill. EXHIBIT 1 Voice vote was taken. Motion CARRIED unanimously.

REP. LARSON said he was concerned about having an incentive for producers of ethanol at the federal and state level.

REP. ELLIS said this is the main idea, to develop the ethanol market so the fuel will become available for the public to have the option. He said with the new clean air environment policy, the gasohol will give the larger three cities the access they need if they don't want large fines, etc.

REP. KNOX said he was in support of the bill. He said in many cases, grain that is out of condition, partially spoiled and of no use for anything else is being used. The ethanol plant in Ringling, Montana utilize's this spoiled grain and provides a market for the grain growers.

REP. GALVIN said the cost of ethanol at the service station at malfunction junction in Helena is 1 to 2 cents cheaper than the Continental Company.

CHAIRMAN STANG informed the committee there is currently a Senate bill dealing with the same issue and that is the reason this bill wasn't scheduled earlier.

REP. FOSTER addressed SEN. SVRCEK'S bill, SB 109. He said SEN. SVRCEK'S bill came out with a ten cent higher cost than his and the senate voted it down on second reading. Then it went back into committee and moved it two cents higher. They changed it again to read "gasohol is reasonably and commercially available within the operating area of the vehicle at the same price as the motor vehicle fuel otherwise used for the vehicle". REP. FOSTER said the wording in his bill, HB 144, better reflects how the real world would react to a mandate such as this. He asked the committee to support his bill.

CHAIRMAN STANG said the easiest way to handle the two bills, would be to amend SEN. SVRCEK'S bill to read the same as HB 144, than the senate would have to accept or reject the amendments.

REP. NELSON stated she would like to see action on HB 144. She said it was a more superior bill than SB 109, and would like to have the Senate act on HB 144.

Vote: HB 144 DO PASS AS AMENDED. Motion CARRIED unanimously.

HEARING ON HB 743

Presentation and Opening Statement by Sponsor:

REP. JOHN SCOTT, House District 97, said if this bill passes, the State Highway Department will install and maintain flashing lights on interstate highways where speeds are limited or reduced to 55 MPH from 65 MPH. He said this will alert the unintentional driver to reduce speed. The Justice Department has informed him this will inform the unintentional speeders there is a reduced speed limit thus saving the state money. The average cost of issuing a natural resource ticket is \$22.50. If over 350 tickets were issued in one of the three areas in the state would pay for these flashing lights. He said that REP. QUILICI, Chairman of the highway appropriation subcommittee informed him the lights could be paid for out of the existing funds.

Proponents' Testimony: None

Gary Gilmore, Administrator of Operations Division, Highway Department, said this is a misuse of flashing lights. The manual of Traffic Uniform Devices adopted by the Montana Department of Highways in accord with legislation established by the people does not allow the use of flashing lights. The use of an amber flasher is to identify a hazardous area such as; school zones, intersections, crosswalks, dangerous curves in general all areas that demand attention to make the driver recognize there is a potential hazard ahead. The flashing lights are allowed in regard to speed limits, are areas of variable speed limit signs. They have been used in areas of school zones where there is a variable message of when school is in session and more when school is not in session, the flashing light will flash when the reduced speed is in effect. The flashing lights have been used in areas where there is a speed limit sign with another sign that says "speed limit in effect when flashing." Mr. Gilmore said the department believes when allowing flashing lights on permanent non changing speed limit signs as proposed in HB 743, would take away the effectiveness of the present use of flashing beacons and in effect is not acceptable to the department.

Questions From Committee Members:

CHAIRMAN STANG asked why Montana is the only state in the western states when going from 65 mph to 55 mph do not put out a fluorescent yellow or orange flag. Mr. Gilmore said he did not know. CHAIRMAN STANG asked if the federal law did not require that. Mr. Gilmore said it did not. CHAIRMAN STANG asked if he had any information on how much the cost would be to put these flags in place. Mr. Gilmore said he thought it would be minimal.

Closing by Sponsor:

REP. SCOTT said due to the increase in traffic, the federal government has decided there is a hazard in reduction to speed. He felt this is not a misuse of flashing lights.

HEARING ON HB 899Presentation and Opening Statement by Sponsor:

REP. VICKI COCCHIARELLA, House District 59, said this bill is a request by the Office of Public Instruction (OPI). The attorney for OPI has informed the office it cannot spend traffic education account on various items, i.e., money for drivers education comes out of this traffic education account. According to the attorney, money cannot be spent on bike safety, wearing a helmet, teaching the bus drivers safety, teaching the little kids how to get off and on buses. The only thing that is legal and by law, the money can be spent for 15 and 16 year old kids to take drivers ed. In the past, the account has paid for the other above mentioned list. The idea behind the bill is to clarify for OPI and make it legal for them to spend money on the safety programs mentioned.

REP. COCCHIARELLA read testimony by Hal Stearns Sr., door man of the Senate. She stated he had lost a 12 year old son that was riding a bike and said it is necessary to pass this bill to teach safety to children and adults.

Proponents' Testimony:

Mr. Greg Groepper, OPI, said this bill will expand the definition of traffic education to make legal those things done in the past not technically legal under the present law. In the past, OPI distributed safety pamphlets, etc. This bill will make it clear that traffic education includes bus driver education, bike safety. He gave some statistics on bikes: In America there are 90 million bicycle riders. In 1989 there were over 515 bicycle injuries treated in emergency rooms and nearly 1,000 highway bicycle related fatalities. In one half of those fatalities, the riders were 16 years of age or younger. The death rate is the highest between 10 and 16 years of age. In 9 to 12 year old boys, bicycle deaths account for 30% of all motor vehicle related deaths. Most non-fatal bicycle injuries do not involve hitting another motor vehicle, but the person contacting the ground. The responsibility for serious injuries age related through the age of 12 that crashed on bicycles and end in the emergency room are usually the fault of the bike rider, but over that age the probability decreases with age to be the fault of the rider. About one third of bicycle injuries to persons 25 and over are not their responsibility. He said if we can teach kids the value of wearing a helmet the head injuries would be reduced about 85%. Mr. Groepper said this bill will make it possible to have educational programs at the district level and reimburse

districts for conducting bike safety programs and driver education programs. He said Congress passed a bill in 1974 on Motor Vehicle and School Bus Safety, one of the amendments was a Highway Program Safety Standard #17, that strongly recommends that all states develop school bus safety programs for K-12 students and adults. It also included a state funded pupil transportation safety director specialist position. Montana through OPI has attempted to maintain the safety position since 1975 and were just informed by the National Highway Traffic safety administration they are preparing to advise states they have a responsibility to establish and maintain a comprehensive school bus safety program. Mr. Groepper said they want to comply with that program. He said a sunset provision can be added to this and they will come back in two years to show legislature what OPI is able to do with bus and bike safety, and demonstrate to the committee that OPI will not diminish in any way the drivers education programs that are taking place in the district level.

Opponents' Testimony: None

Questions From Committee Members:

REP. BERGSAGEL asked if OPI currently provide courses for school bus safety for the drivers. Mr. Groepper said there is a facility in Lewistown for advance driver education. He said it cost the districts \$100 tuition for the bus drivers to attend this training, but said this only operates during the summer months. Mr. Groepper said there is a one quarter time person that works the districts to answer requests, but there isn't anyone at this time that can go out and assist these people to set up for bus safety. REP. BERGSAGEL asked if he could foresee adding an FTE as an safety instructor to contact those districts. Mr. Groepper said there is no additional FTE proposed in this bill, he said the way to do this would be to contract with a district that has an effective program for replicating their safety instruction program and distributing it to other districts, incorporating part of their safety program in OPI's advanced drivers safety education program.

Closing by Sponsor:

REP. COCCHIARELLA said this bill does not take away any money from drivers ed especially if the amendment is adopted that was offered by Mr. Groepper to sunset in two years to see how it works. She said this will serve the children of the state better if the traffic education account goes to fund training and safety education for children of all ages and not just the children that are 15 years of age and older.

HEARING ON HB 588Presentation and Opening Statement by Sponsor:

REP. IRVIN DAVIS, House District 53, Lake County, said this bill is designed as a convenience bill to allow a person that holds a current valid drivers license from another state and is now living in Montana as a permanent resident to relinquish the out of state license for a Montana license. He said there are a lot of people transferring in from out of state that have a job, current license and this will allow them to exchange their license. This person would only be exempt from the written and the drivers examination but not the eye test. The exemption would not allow for any or all fees. The exams are similar from state to state and should not be required if they have a current license. REP. DAVIS distributed amendments for the bill. EXHIBIT 2 and EXHIBIT 3.

Proponents' Testimony:

Anita Drews, Chief Examiner for Drivers Services Bureau, said the bureau supports the bill as amended and offered her assistance if the committee had any questions.

OPPONENTS': None

Questions From Committee Members:

REP. LARSON asked what other states do. REP. DAVIS referred the question to Anita Drews. Ms. Drews said with the exception of commercial license program they are transferring licenses between states without requiring a written test. She was not aware of any states at this time that are not requiring written test for base license. She said it is in the planning stage to have a standardized test.

Closing by Sponsor:

REP. DAVIS offered another amendment to have this bill become effective immediately upon passage on approval. He spoke with Ms. Drew before the hearing and felt it should be given a chance for two years, if it doesn't work than the sunset will take it out.

HEARING ON HJR 35Presentation and Opening Statement by Sponsor:

REP. BOB GERVAIS, HOUSE DISTRICT 9, Browning, said his bill is simple, but the implication of it reaches into Canada. The bill asks for the border stations in the Babb area and the Chief Mountain area to be open from 7:00 a.m. to 11:00 p.m. all year round instead of in the summer time for the tourist season.

Proponents' Testimony:

Robert Dobrovolny, Babb Area, said the border at Chief Mountain is open for longer hours in late May to September 15. He said the impact of the shorter hours in the winter is hard on them. He gave a synopsis of the impact in his area; there is a service station at the junction of Highway 89 and Highway 17. He said the station will sell about 2,000 gallons of fuel every two days and 80% of that is from Canadians. On the 2,000 gallons is \$640 paid in tax. He said there is no opposition on the Canadian side, but the federal government might oppose this because of the money side of it.

Carol Juneau, Daisy Gilbreath, Jule ManyHides, Leonda Bird, Angi Pollak, Browning, all spoke in support of the bill.

Opponents' Testimony: None

Questions From Committee Members:

REP. LARSON asked if the border crossing is literally locked during the unmanned hours. REP. GERVAIS said it was. There is a gate with a padlock on it. REP. LARSON asked what happens if there is an emergency. REP. GERVAIS said the ambulance people have a key.

CHAIRMAN STANG asked what the hours are in the winter. REP. GERVAIS said the gate is open from 9:00 a.m. to 6:00 p.m. in the winter.

Closing by Sponsor:

REP. GERVAIS said it is 135 miles to the next border crossing which is in Sweet Grass. He said there is about 35 children that go to school in Canada. They cannot participate in the school activities in the winter time because of the hours. He urged the committee to pass this bill.

HEARING ON HB 638**Presentation and Opening Statement by Sponsor:**

CHAIRMAN STANG, House District 52, presented the bill for REP. SCHYE. He said this bill repeals the regulatory powers of the Board of Aeronautics. EXHIBIT 4 He said the airlines that were regulated are now deregulated and no longer valuable in Montana.

Proponents' Testimony:

Mike Ferguson, Administrator Aeronautics Division., Department of Commerce, said his division requested this bill. The regulations have been held on the books far too long, since the 1978 airline deregulation act. The federal government pre-empted state rights to regulate the airlines. He said this bill cleans out old laws

that are no longer needed.

Questions From Committee Members:

REP. LARSON asked if there was anything left to do and if the Board of Aeronautics is dissolved. Mr. Ferguson said no. To regulate airlines was one of the old duties of the Aeronautics board and it is no longer required.

Closing by Sponsor:

CHAIRMAN STANG asked the committee to consider this bill and place it on the consent calendar.

HEARING ON HB 659

Presentation and Opening Statement by Sponsor:

REP. TOM NELSON, House District 95, said this bill clarifies off-road vehicle decals that are applicable for motorcycles. In the last session Orville Ellison had HB 165 which set up an off-road decal that cost \$5 for motorcycles and quadra cycles. The \$5 decal charge is for these vehicles if used on public land and are purchased from the county treasurer. The purpose of the \$5 is to build a fund for use on the maintenance of the trails used by these off-road vehicles. HB 659 clarifies the difference in the kinds of motorcycles that have to pay this fee. The inclusion of highway cruising motorcycles has created a problem for the FWP that enforces the decal. He said there are two type of motorcycles: 1) highway motorcycles, i.e. Harley Davidson, Honda Gold Wing, etc., that are used for long distance highway traveling; 2) off-road motorcycles that are not made for the highway and cannot be licensed for such use. He said off-road vehicles cannot purchase a license, but pays a fee in lieu of tax, about \$25 or \$30 per year. He said HB 659 was brought about by a constituent that had taken his highway bike off the highway onto public land and was in violation and fined because he did not have the \$5 decal. The problem is this; a four wheel drive pick-up can drive onto public land and not get fined, but a highway bike cannot go onto public land unless he has the \$5 decal and they pay for their license same as a four wheel drive pick-up.

Proponents' Testimony:

Dal Smiley, Vice Chairman, American Motor Cycle Association, distributed EXHIBITS 5 and 6. He said HB 165 that went through last session was to raise funds to stop environmental degradation and maintain and build trails. Unfortunately the decal applies for all motorcycles and quadracycles whether they are licensed or not. He said there are three types of motorcycles; 1) the off-road bike that cannot be licensed at all; 2) highway motorcycles; and 3) dual purpose bikes that can be ridden on the highway and off-road. The problem is driving a

highway bike off onto an off-road access to fish, hike, etc. The intention of the bill was to create the \$5 decal to pay for off-road travel and any public land use. The amendment he distributed exhibit 6, states that an exception for licensed motorcycles and licensed quadracycles whereby, they can be utilized without the decal for fishing, hiking, picnic and camping access and not off-road riding. On a visible two track trail there isn't cheating when your only one mile back on a designated trail, but if you're 35 miles back that would be another thing. The \$5 fee needs to be collected to keep the program viable from the dual purpose bikes and the off-road bikes, but there is a reasonable area for an extension and felt this amendment will make it work.

Linda Ellison, Land Use Coordinator for the Montana Trail Riders Association, said that Mr. Smiley and REP. NELSON have explained the back ground of what has taken place. The \$5 decal came about as a way to identify off-road vehicles and machines that are out in the field and not previously registered. She said last year it was extended to license machines that are used off-road in order to participate and help fund the program. The intention was to make it a "paid to play plan". The law is specific at this time, a licensed highway bike must have the decal to go off-road and hoped the committee could address it.

Dennis Miller, Rocky Mountain Trail Bike Riders, said he has a problem with the bill that was not noticed before. He would like to make sure that the people with full dressers i.e., Honda Gold Wing, can go on the off-roads to reach their access. He felt the amendments will address the problem.

Opponents' Testimony: None

Questions From Committee Members:

CHAIRMAN STANG asked if the amendments were added to the bill, could she foresee a problem if this was passed with people not buying the sticker and causing an enforcement problem with FWP. Ms. Ellison didn't think so, she thought it was pretty clear and defined what an off-road vehicle is. She felt this was more of an incidental exception and didn't think there would be a fiscal impact if the bill passed with the amendment.

REP. ELLIS asked how much the \$5 decal brought in. Ms. Ellison said about \$40,000 this year.

REP. STEPPLER asked about the \$25 - \$30 fee on highway vehicles. She said the license fee on motor cycles are adjusted for market value, the off-road vehicle licensed for highway use are less than a large full dresser. The base fee was set up to be equivalent to the fee in lieu of tax. Ms. Ellison said there are other things addressed in the fee besides tax, i.e., motorcycle safety program, etc.

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REP. CLARK asked if a trail bike 90 that is used as a street bike and off-road still needs the decal even if it is licensed. Ms. Ellison said if it is used both ways, yes.

Closing by Sponsor:

REP. NELSON (Tom) thanked the committee for a good hearing and urged their support for the bill.

HEARING ON HB 597

Presentation and Opening Statement by Sponsor:

REP. PAT GALVIN, House District 40, Great Falls, said in addition to current law 61-9-407, includes small pick-up and vans to put mud flaps on when they have the large tires that make them higher than 22 " off the ground.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members:

REP. FOSTER asked if it meant everything but a car. REP. GALVIN said it meant all trucks, especially the trucks that are owned by kids that are jacked up.

REP. NELSON asked if he considered a pickup a truck under these statutes. REP. GALVIN said it is. This applies to trucks that are less than a three-quarter ton pickup.

REP. TUNBY said it didn't seem like the present law and this bill do not cover everything it should, i.e., 4 x 4 one half ton truck. REP. GALVIN could not answer. He had left it to the legislative council to write.

REP. STEPLER asked what he meant by 22" above the highway, it is current law now but the little pick-ups aren't. He said the half ton pickups are only 20" off the ground and the 22" refers to the three-quarter ton pickups. REP. GALVIN said this bill is an effort to get the tires covered to keep windshields from being broken.

Closing by Sponsor:

REP. GALVIN urged the committee for support of the bill.

HEARING ON HB 593

Presentation and Opening Statement by Sponsor:

REP. DON LARSON, House District 65, Seeley Lake, said this bill is to allow certain signs to be adjacent to the highway. He said

this bill is an attempt to rectify a problem of discrimination. If a person owns a business a mile or two off of the highway in Montana under current law that person cannot advertise his business even if they receive permission from a private landowner that does. If a person owns a business on the highway they can advertise, but the person that is back 4 or 5 blocks cannot. He said this bill is not intended to affect a proliferation of highway signs nor to jeopardize federal funding for highways. The way the federal outdoor advertising act reads if it is violated the federal government can jeopardize and encumber the highway funds. He said this bill is to help promote small business who need all the help they can get. REP. LARSON said they were amiable to any changes to bring this into compliance with the federal sign act. EXHIBIT 7

Proponents' Testimony:

Gerald Parker, Seeley Lake, said that under the current law, if a person owns land beyond 660', they do not have the ability to place an advertising sign on someone else's private property even if that person have their permission. He read an amendment, signs, displays and devices advertising the sale or lease of property upon which they are located or property within 600' of an intersection of an highway designated on the primary system and the access route to the property. He said all they are asking is to place a sign on the access road to advertise their business. He didn't know if there was an oversight in the current law or they just didn't realize the situation, but most businesses are off the highway. If there isn't a business within 600' of the highway that person cannot advertise. Mr. Parker said for eight years he had a sign near the highway to advertise his property, this last December he received a letter from the highway dept., telling him his sign is illegal. He met with the people in Missoula to find out what the problem was, they told him if he didn't take his sign down they would tear it down for him. They informed him they had to abide by the rules and he was in violation. Mr. Parker said his business is destined to fail if he cannot advertise near the highway. Montana wants to promote businesses and tourism but how is anyone to know what activities, business and services are available off the highway if the present law prohibits local businesses to inform and guide them.

Beau McGuire, Phillipsburg, owner of McGuire Enterprises, said he opened his business 3½ years ago, and was informed last November that he is in violation of the Federal Outdoor Advertising Act.

Opponents' Testimony:

Nick Rotering, Legal Division, Department of Highways, said the Highway Department has two major concerns with the bill. He said they are driven by the federal act and a federal agreement. In the 1960's, Congress passed the Lady Bird Johnson Billboard Sign Act, it required the states in order to receive their federal

participation to pass legislation to be in compliance with the federal law. He said if the sign didn't exist before 1967 in a legal situation it could not be grandfathered in. The only way the signs could become legal if the local zoning authorities indicate that a business is within an industrial or commercial zone or you are a private land owner with property adjacent to the right-of-way to the highway. This bill was submitted to the federal highway commission in Helena, their reaction was negative and their view point was; this is a liberization of Montana law and would jeopardize the 10% of \$100 million received in federal funding. He said there are several possibilities the highway department is working on for businesses that are beyond the 600' requirement. Last session a bill that was passed in addition to the logo signs act, called tourist oriented direction of signs (TODS), and is in litigation along with the logo signs. Some of these business here today would be eligible under the TODS program if it were operable to advertise. **Mr. Roterling** said the Highway Department is also trying to get more cooperation on approaches to put up informational signs to show where these businesses are. He said the bill does not specify where the sign has to be located and as the bill is presently written the sign could be located anywhere along a primary highway. **EXHIBIT 8**

Questions From Committee Members:

REP. FOSTER asked **Nick Roterling** if under the TODS program if a sign could be put up that says, "enjoy beautiful Georgetown Lake". **Mr. Roterling** said no. The TODS program is similar to the logo signs concept, the large blue signs that have several different services available with their logo signs on the one large blue sign.

REP. ELLIS asked **Gerald Parker** if he couldn't buy a small piece of property next to the highway and place his sign there. **Mr. Parker** said he had talked to the people in Missoula about this very thing and they informed him if his property that the business is located on was not on that piece of property but 1 or two miles back that he would still be in violation.

REP. CLARK asked how many people were effected by the last federal tour inspection. **Mr. Roterling** said there are 30 new cases since last December. **REP. CLARK** asked if he thought there were more than the 30 cases out there that were not known. **Mr. Roterling** said there could be, especially on the Seeley Swan road where most of the right-of-way is owned by the forest service.

CHAIRMAN STANG asked if there was any the highway department could work out a deal with the federal highway administration to allow a temporary exception to the rule until the TODS and logo signs are out of court. **Mr. Roterling** said he did not know if that would be possible. He said there is always that federal reaction that any temporary unitization is construed as a violation. **CHAIRMAN STANG** asked him if the committee asked the highways department to pursue that route would they if asked.

Mr. Roterling said they might consider it. CHAIRMAN STANG asked him if a person decided to buy a strip of footage along the highway, go to the county commissioners and get it into commercial property and start his own sign company, build his own signs and lease it to himself would he be legal. Mr. Roterling said it was a complex question, but yes. The critical part is the law for local zoning authority, the farther the piece of ground is out of town and is determined industry or commercial site that will exempt them from that as long as the signs are 500' apart.

CHAIRMAN STANG asked Dean Roberts the same question. Mr. Roberts said you cannot zone for billboards. In regards to the question you could not tell the highway department what was being done. The outdoor advertising business does not qualify for business of a sign company. CHAIRMAN STANG asked how Missoula gets by with putting new billboards between the Orange street exit and Reserve street on Highway 93. Mr. Roberts said all of that land is zoned for commercial and has been for a long time.

Closing by Sponsor:

REP. LARSON said this bill is to permit businesses that are 2, 3 or 4 miles off of the highway to advertise at the juncture of the road to his business from the highway. He said this is a confusing area of the law with the federal government involved. He hoped this was a step in addressing the problem by asking our congressmen to see if these people can leave their signs up until the TODS litigation is over.

HEARING ON HB 646

Presentation and Opening Statement by Sponsor:

REP. JAMES MADISON, House District 75, Jefferson Co., said this bill deals with decals and license plates issued to the handicapped citizens. Under current law, a handicapped person can only receive one license plate and one decal. It changes the law to allow the handicap people to obtain an extra decal or for how many vehicles they own. He said it isn't easy for these people to take the decal from one car window to place it in another car window if they so desire.

Proponents' Testimony:

Dean Roberts, Administrator Motor Vehicles Department, said he does not have any problems with this bill.

Opponents' Testimony: None

Questions From Committee Members:

REP. KNOX asked how many possible cases is he talking about.

REP. MADISON said he did not know, but all it takes is one

violation of someone to park in a handicap parking spot that is not a handicap and felt there was a lot of abuse on this issue.

REP. BERGSAGEL asked why does a law have to be passed for this. Mr. Roberts replied they would be in violation of the statute. He said the handicap can have three license plates if they have three cars under current law but only one decal.

Closing by Sponsor:

REP. MADISON thanked the committee for a good hearing and urged passage of this bill.

EXECUTIVE ACTION ON HB 588

Motion: REP. LARSON MOVED HB 588 DO PASS.

Motion/Vote: REP. LARSON moved to adopt amendments; 1) One amendment includes upon passage and approval; 2) strike "duration" on line 7; and 3) page 1 following line 12, Section 2. Effective date. EXHIBIT 3 Voice vote was taken. Motion CARRIED.

MOTION/VOTE: REP. CLARK MADE A SUBSTITUTE MOTION THAT HB 588 DO PASS AS AMENDED. Motion CARRIED unanimously.

Vote: HB 588 DO PASS AS AMENDED. Motion CARRIED unanimously and was placed on the alternative consent calendar.

EXECUTIVE ACTION ON HB 593

Motion: REP. LARSON MOVED HB 593 BE TABLED.

Discussion: REP. LARSON addressed his motion. He recommended the committee write a letter to the Highway Department to encourage them to grandfather the signs that are already up until the litigation is over with the Minnesota company.

Vote: HB 593 BE TABLED. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HB 597

Motion: REP. GALVIN MOVED HB 597 DO PASS.

Discussion: REP. GALVIN addressed his bill saying it is a safety bill and felt it would keep the insurance rates down.

REP. CLARK said the only thing this bill changes is it will include vans and recreation vehicles, everything else is currently covered. He said any vehicle that is more than 20" setting level and empty and measured at the fender behind the

wheel and not on the bumper. The many times he has spent on the highways his windshield has never been broken from following someone, but did have windows broken when meeting cars coming the other way. If the vehicles are less than 20" or weigh more than 8,000 lbs. and come within 10" of the ground, they are covered.

Vote: HB 597 DO PASS. Motion CARRIED 13 to 4 with REP. FELAND, REP. STEPPLER, REP. BERGSAGEL and REP. NELSON voting no.

EXECUTIVE ACTION ON HB 648

Motion: REP. KNOX MOVED HB 638 DO PASS.

Motion/Vote: HB 638 DO PASS AND BE PLACED ON THE ON THE CONSENT CALENDAR. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HB 646

Motion: REP. MADISON MOVED HB 646 DO PASS.

Motion/Vote: REP. MADISON MOVED HB 646 DO PASS AND BE PLACED ON THE CONSENT CALENDAR. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HB 659

Motion: REP. STEPPLER MOVED HB 659 DO PASS.

Motion/Vote: REP. STEPPLER moved to adopt amendments. EXHIBIT 6 Motion CARRIED.

Vote: REP. BERGSAGEL MADE A SUBSTITUTE MOTION THAT HB 659 DO PASS AS AMENDED AND BE PLACED ON THE CONSENT CALENDAR. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HB 743

Motion: REP. FELAND MOVED HB 743 DO NOT PASS.

Discussion: REP. CLARK addressed the bill. He asked if the violation ticket was still a conservation ticket. CHAIRMAN STANG informed said it is, even if they are doing 65 mph in a 55 mph zone.

Motion/Vote: REP. MCCULLOCH MADE A SUBSTITUTE MOTION THAT HB 743 BE TABLED. Question was called. Voice vote was taken.

Vote: HB 743 BE TABLED. Motion CARRIED 15 to 2 with REP. MCCULLOCH and CHAIRMAN STANG voting no.

EXECUTIVE ACTION ON HB 899

Motion: REP. MCCULLOCH MOVED HB 899 DO PASS.

Discussion: CHAIRMAN STANG addressed HB 899. He said that REP. FORRESTER was suppose to carry the bill, but he had to let REP. VICKI COCCHIARELLA take over as the main sponsor because he thought this bill would be taking drivers ed money. OPI said they would not use any of that money and this is why they have put a two year sunset on it. He also informed the committee if this bill isn't renewed it would automatically die.

REP. NELSON asked if the classes were held at the schools. REP. MCCULLOCH said that the schools distribute material and information and offer the bicycle classes.

CHAIRMAN STANG said he spoke with OPI and they need the authorization of this bill that will allow them to distribute the materials for the safety programs.

Motion/Vote: REP. MCCULLOCH moved to adopt amendment on the two year sunset. Motion CARRIED unanimously.

Vote: REP. MCCULLOCH MADE A SUBSTITUTE MOTION THAT HB 899 DO PASS AS AMENDED. Motion CARRIED 13 to 4 with REP. STEPPLER, REP. BERGSAGEL, REP. NELSON and REP. FELAND voting no.

EXECUTIVE ACTION ON HJR 37

Motion: REP. MCCULLOCH MOVED HJR 37 DO PASS.

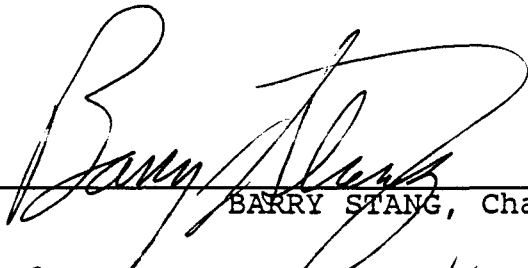
Motion/Vote: REP. STEPPLER moved to adopt amendment, page 2, line 12. Strike: "intercourse", Insert: "interchange". Motion CARRIED 12 to 5 with REP. FELAND, REP. FOSTER, REP. BERGSAGEL, REP. CLARK and CHAIRMAN STANG voting no.

Motion/Vote: REP. LARSON MADE A SUBSTITUTE MOTION THAT HJR 37 DO PASS AS AMENDED. Question was called. Voice vote was taken.


Vote: HJR 37 DO PASS AS AMENDED. Motion CARRIED unanimously.

ADJOURNMENT

Adjournment: 6:45 p.m.



BARRY STANG, Chair



CLAUDIA JOHNSON, Secretary

BS/cj

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL

DATE 2-21-91

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	<i>late - after 11:30 hrs</i> ✓		
REP. DON STEPPLER	" " " ✓		
REP. HOWARD TOOLE			
REP. ROLPH TUNBY	✓		
REP. BARRY "SPOOK" STANG, CHAIRMAN	✓		

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 144 (first reading copy -- white) do pass as amended.

Signed: Barry Stang, Chairman

And, that such amendments read:

1. Page 1, line 25 through page 2, line 1.

Following: line 24

Strike: line 25 through "engines" on page 2, line 1

Insert: "all products commonly or commercially known or sold as gasohol and used for the purpose of effectively and efficiently operating internal combustion engines, consisting of not less than 10% anhydrous ethanol produced from agricultural products, including wood or wood products"

2. Page 2, lines 17 and 18.

Strike: subsection (6) in its entirety

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 638 (first reading copy -- white) do pass and be placed on consent calendar .

Signed: _____
Barry Stang, Chairman

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 588 (first reading copy -- white) do pass as amended .

Signed: Barry Stang, Chairman

And, that such amendments read:

1. Title, line 7.

Strike: "DURATION"

Insert: "CLASS, TYPE, AND ENDORSEMENT UPON PAYMENT OF THE
REQUIRED FEES"

2. Title, line 10.

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 2, line 8.

Strike: "duration"

Insert: "class, type, and endorsement upon payment of the
required fees"

4. Page 2, line 12.

Following: "test"

Insert: "or, in the case of commercial drivers, any examination
required by federal regulations"

5. Page 2.

Following: line 12

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

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation
report that House Bill 597 (first reading copy -- white) do
pass .

Signed: _____
Barry Stang, Chairman

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 646 (first reading copy -- white) do pass and be placed on consent calendar.

Signed: 
Barry Stang, Chairman

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 659 (first reading copy -- white) do pass as amended and be placed on consent calendar .

Signed: _____
Barry Stang, Chairman

And, that such amendments read:

1. Title, line 4.
Following: "TO"
Strike: "EXEMPT A MOTORCYCLE"
Insert: "PROVIDE LIMITED EXEMPTIONS"

2. Title, line 6.
Following: "THE"
Strike: "MOTORCYCLE"
Insert: "OFF-HIGHWAY VEHICLE"

3. Title, line 8.
Strike: "SECTION"
Insert: "SECTIONS 23-2-802 AND"

4. Page 1, line 11.
Following: line 10
Insert: "Section 1. Section 23-2-802, MCA, is amended to read:
"23-2-802. Exemptions. The provisions of this part do not apply to:
(1) an off-highway vehicle:
~~11~~ (a) owned or used by the United States or another state or an agency or political subdivision thereof;
~~2~~ (b) registered in a country other than the United States, temporarily used within this state for not more than 30 days; or
~~3~~ (c) registered in another state of the United States, temporarily used within this state for not more than 30 days; or
(2) a licensed motorcycle or licensed quadricycle used for fishing and hiking access, camping, or picnicking on a

visible two-track trail or road within 1 mile of a
designated road."

Renumber: subsequent section

5. Page 1, lines 13 and 14.

Following: "23-2-802" on line 13

Strike: remainder of line 13 through "no" on line 14

Insert: ", an"

6. Page 1, line 14.

Following: "may"

Insert: "not"

7. Page 1, line 15.

Following: "for"

Insert: "off-road"

8. Page 1, line 25.

Following: "and"

Insert: "motorcycles and"

9. Page 2, line 24 through page 3, line 2.

Strike: subsection (4) in its entirety

HB 659

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 899 (first reading copy -- white) do pass as amended .

Signed: _____
Barry Stang, Chairman

And, that such amendments read:

1. Title, line 9.

Strike: "AND"

2. Title, line 10.

Following: "MCA"

Insert: "; AND PROVIDING A TERMINATION DATE"

3. Page 2.

Following: line 10

Insert: "NEW SECTION. Section 2. Termination. [This act] terminates October 1, 1993."

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that House Joint Resolution 37 (first reading copy -- white) do pass as amended .

Signed: _____
Barry Stang, Chairman

And, that such amendments read:

1. Page 2, line 12.
Strike: "intercourse"
Insert: "interchange"

EXHIBIT 1
DATE 2-21-91
HB 144

AMENDMENTS PREPARED FOR HOUSE BILL 144

REQUESTED BY REPRESENTATIVE FOSTER

Page 1, subsection (2).

Strike: all of subsection (2)

Insert: new subsection (2), " 'Gasohol' means all products commonly or commercially known or sold as gasohol, used for the purpose of effectively and efficiently operating internal combustion engines, consisting of not less than 10% anhydrous ethanol produced from agricultural products, including wood or wood products."



The Big Sky Country

EXHIBIT 2
DATE 2-21-91
HB 588

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE ERVIN DAVIS

HOUSE DISTRICT 53

HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620

HOME ADDRESS:
P.O. BOX 53
CHARLO, MONTANA 59824

COMMITTEES:
EDUCATION, VICE-CHAIRMAN
STATE ADMINISTRATION

February 18, 1991

TESTIMONY ON HOUSE BILL 588

Mr. Chairman, members of the committee, my name is Ervin Davis, Representative House District 53, Lake County.

HB 588 is a bill of convenience. It would allow a person holding a valid current driver's license in another state, who has become a permanent resident of Montana, to relinquish that out-of-state license for a Montana license.

That person would be exempt only from the written and driver's examinations, but not from the eyesight test.

Exemption would also not be allowed for any or all fees.

In many cases, if not most, driver's exams, both written and actual driving, are substantially the same from state to state. If one can drive in other states by following highway and

EXHIBIT 2
DATE 2-21-91
HB 588

traffic signs, he/she can most likely drive here in Montana. That point may be debated. You might very well use your own driving ability as case in point when driving in other states. Your current Montana driver's license usually allows you to get to and from. That's the issue here and the intent of HB588.

I'd encourage the passage of this bill. It will in no way be a cost to the State, but a convenience to new residents to our state.

Thanks for your positive consideration.

Ervin Davis, Representative

ED/eb

Amendments to House Bill No. 588
First Reading Copy

EXHIBIT 3
DATE 2-21-91
HB 588

For the Committee on Highways and Transportation

Prepared by Lee Heiman
February 22, 1991

1. Title, line 7.

Strike: "DURATION"

Insert: "CLASS, TYPE, AND ENDORSEMENT UPON PAYMENT OF THE
REQUIRED FEES"

2. Title, line 10.

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 2, line 8.

Strike: "duration"

Insert: "class, type, and endorsement upon payment of the
required fees"

4. Page 2, line 12.

Following: "test"

Insert: "or, in the case of commercial drivers, any examination
required by federal regulations"

5. Page 2.

Following: line 12

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

67-3-421. Regulatory powers of board of aeronautics. The board may:

- (1) supervise and regulate every air carrier in those matters affecting ticketing, flight reservations, passenger baggage, advertising, passenger convenience and comfort, and transportation of freight;
- (2) after notice to all interested parties and the public and after hearing, fix the rates, fares, charges, classifications, and rules of each carrier;
- (3) regulate the accounts of each carrier and require the filing of annual and other reports and of other data by the carriers;
- (4) by general order or otherwise, adopt rules applicable to all air carriers. The board, in the exercise of the jurisdiction conferred upon it, may make orders and adopt rules affecting air carriers, notwithstanding the provisions of any ordinance or permit of a town, city, city and county, or county, and in case of conflict the order or rule of the board prevails.

History: En. Sec. 2, Ch. 171, L. 1967; amd. Sec. 27, Ch. 348, L. 1974; R.C.M. 1947, 1-323(1).

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

67-3-422. Issuance of certificates of public convenience and necessity. (1) No air carrier may engage in an operation in this state without first obtaining from the board a certificate of public convenience and necessity authorizing the operation.

(2) An applicant shall submit his written verified application to the board. The application shall be in a form, contain the information, and be accompanied by proof of service upon all air carriers with which the proposed service is likely to compete and upon other interested parties, as the board requires. Each application shall be accompanied by a fee of \$150.

(3) In awarding certificates of public convenience and necessity, the board shall consider the business experience of the particular air carrier in the field of air operations, the financial stability of the carrier, the insurance coverage of the carrier, the type of aircraft which the carrier would employ, proposed routes and minimum schedules to be established, whether the carrier could economically give adequate service to the communities involved, the need for the service, and any other factors which may affect the public interest.

(4) After notice to the interested parties and the public and after hearing, the board may:

- (a) issue the certificate requested;
- (b) refuse to issue the certificate;
- (c) issue the certificate for the partial exercise only of the privilege sought.

(5) The board may attach terms and conditions to the exercise of the rights granted by the certificate as, in its judgment, the public convenience and necessity require.

History: En. 1-323.1 by Sec. 28, Ch. 348, L. 1974; R.C.M. 1947, 1-323.1.

67-3-423. Transfer and combination of certificates of public convenience and necessity. (1) The holder of a certificate of public convenience and necessity must apply to the board for permission to sell, mortgage, lease, assign, transfer, or otherwise encumber a certificate. A fee of \$150 shall be paid to the department for filing each application to sell, mortgage, lease, assign, transfer, or otherwise encumber a certificate.

(2) The board may, after notice and hearing, approve the application or refuse to approve it and may approve it under those terms and conditions which, in its judgment, the public convenience and necessity require.

(3) Without the express approval of the board, no certificate of public convenience and necessity issued to one air carrier may be combined, united, or consolidated with a certificate issued to or possessed by another carrier so as to permit through service between any point served by one carrier and any point served by the other carrier.

History: En. 1-323.2 by Sec. 29, Ch. 348, L. 1974; R.C.M. 1947, 1-323.2.

67-3-424. Suspension — amendment — revocation. (1) Upon a finding of an agency of the federal government that an air carrier is operating in violation of a federal safety law or regulation, the board may suspend and the department shall enforce the suspension of certificates of public convenience and necessity issued by the board.

(2) For any other good cause, the board may, upon notice to the holder of a certificate and opportunity to be heard, suspend, revoke, alter, or amend a certificate.

History: En. 1-323.3 by Sec. 30, Ch. 348, L. 1974; R.C.M. 1947, 1-323.3.

Cross-References

Contested cases, Title 2, ch. 4, part 6.

67-3-425. Establishment of rates — discontinuance of service. (1) An air carrier may, upon prior written approval from the board, after notice to all interested parties and the public and after hearing, establish through rates and joint rates, charges, and classifications between all points served by it under certificates or operative rights issued to or possessed by it.

(2) No air carrier may discontinue operations to a point without authority of the board, unless the operations are unprofitable. Unprofitable operations may be discontinued upon 30 days' notice to the board and to other persons the board may require, unless within the 30-day period the board, after hearing, finds that the operation is not unprofitable and orders its continuance.

History: En. 1-323.4 by Sec. 31, Ch. 348, L. 1974; R.C.M. 1947, 1-323.4.

67-3-426. Board may require insurance. The board may, upon its motion or upon application of an interested party and after hearing, require an air carrier to procure and maintain insurance in amounts and upon terms as the board may determine. The board may suspend the certificate of an air carrier for failure to comply with the insurance regulations established under this section.

History: En. 1-323.5 by Sec. 32, Ch. 348, L. 1974; R.C.M. 1947, 1-323.5.

67-3-427. Enforcement, appeals, and judicial determinations. (1) When a complaint has been filed with the board alleging that an aircraft is being operated without a certificate of public convenience and necessity or when the board believes that 67-3-421 through 67-3-429 are being violated, the board shall investigate the operations and may, after a hearing, make its order requiring the operator of the aircraft to stop an operation in violation of this section. The department shall enforce compliance with the order by means of powers vested in it by law.

(2) The district court has jurisdiction to enforce, by proper decree, injunction, or order, the rates, classifications, rules, and orders made by the board. The proceeding shall be by equitable action in the name of the state and shall be instituted by the attorney general or county attorney when advised by the department that an air carrier is violating or refusing to comply with a rule, order, rate, or classification made by the board and applicable to that air carrier. The proceedings shall have precedence over all other business in the district courts except criminal business.

(3) In an action the burden of proof rests upon the defendant, who must show by clear and satisfactory evidence that the rule, order, rate, or classification involved is unreasonable and unjust. If the court decides that the rule, order, rate, or classification is not unreasonable or unjust and that in refusing compliance the air carrier is failing to fulfill a duty, debt, or obligation, the court shall decree a mandatory and permanent injunction compelling compliance with the rule, order, rate, or classification by the defendant and its officers, agents, servants, and employees and may grant other relief which may be considered just and proper. A violation of the decree makes the defendant and officer, agent, servant, or employee of the defendant who is in any manner instrumental in the violation guilty of contempt, punishable by a fine not

exceeding \$1,000 for each offense or by imprisonment of that person until he sufficiently purges himself. The decree remains in effect until the rule, order, rate, or classification is modified or vacated by the board.

(4) An air carrier may bring an action in the district court of the county where the principal office or place of business is situated or in a county where a classification, rate, toll, charge, rule, or order of the board applies, against the board as defendant to determine whether the classification, rate, toll, charge, rule, or order made or established by the board is just and reasonable. In an action, hearing, or proceeding in any court, the classification, rate, toll, charge, rule, and order made and established by the board shall prima facie be considered just, reasonable, and proper.

(5) Appeals taken to the supreme court from the judgment of a district court under this section have precedence over all other business, except criminal business and original proceedings in that court, and shall be heard and determined as are appeals in civil actions.

(6) All costs and expenses incurred in the hearing, trial, or appeal of an action brought under this section shall be determined and assessed in a manner the court considers just and equitable.

History: En. 1-323.6 by Sec. 33, Ch. 348, L. 1974; R.C.M. 1947, 1-323.6.

Cross-References

Contested cases, Title 2, ch. 4, part 6.
Injunctions, Title 27, ch. 19.

Departmental enforcement, 67-2-501.
Departmental investigations, 67-2-502.

67-3-428. Notice of regulation hearings. Notice as required by 67-3-421 through 67-3-427 shall be given by publication once a week for 3 successive weeks in a newspaper of general circulation in the county in which the hearing is to be held and by personal service by mailing to all interested parties. However, in the case of the hearings required by 67-3-421 and 67-3-425(1), if no written protest or written request that the hearing be held is received by the board within 5 days after the date of the last publication of the notice, the board may, in its discretion, vacate the hearing and establish the rates, fares, charges, classifications, and rules of the air carrier without hearing. The notice required by this section shall state that the board may vacate the hearing unless a written protest or request that the hearing be held is received by the board as required by this section.

History: En. Sec. 3, Ch. 171, L. 1967; amd. Sec. 1, Ch. 208, L. 1969; amd. Sec. 34, Ch. 348, L. 1974; R.C.M. 1947, 1-324.

67-3-429. Exceptions. (1) No air carrier may operate aircraft except in accordance with 67-3-421 through 67-3-429.

(2) Sections 67-3-421 through 67-3-429 do not apply to:

(a) common carriers of passengers or freight by aircraft which operate within this state under a certificate of public convenience and necessity issued by the federal government; or

(b) aircraft operators who carry passengers for hire, are commonly known as "taxi operators" or "charter operators", operate on an occasional or contract basis, and do not operate as common carriers between terminal points, including intermediate points, if any.

History: En. Sec. 1, Ch. 171, L. 1967; amd. Sec. 25, Ch. 348, L. 1974; R.C.M. 1947, 1-322.

HB 659 "Clarify Off-Road Vehicle
Decal applicable to motorcycles

HB 65 in the '84 session (Oval Ellison)
set up an off-road decal, costing \$5.00,
for motorcycles and quadricycles.

The \$5 decal is required for these off-
road vehicles if they are to be used
on public lands. The decal is purchased
from the County Treasurer.

The purpose of that piece of legisla-
tion is to build up a fund for maintenance
of trails which are used by off-road
vehicles. I agree with this program
and do not want to disturb it with
my bill HB 659.

My bill's purpose is simply to clarify
a difference in kinds of motorcycles.
The inclusion of hiway cruising motor-
cycles has created a problem for
a few of my constituents as well as
Fish Wildlife & Parks, which enforces
the decal.

As I understand this, there are two types

2.
of motorcycles:

1. The highway motorcycle; i.e., Harley-Davidson, Honda - Goldwing, which are used for long-distance highway traveling.

They are very heavy vehicles, low-slung with mufflers perhaps 5 inches off the ground - very little clearance. One generally wouldn't take one of these machines off-road.

Some of these motorcycles cost \$10,000 to \$14,000. They are licensed, like an automobile, and a 2% ad valorem tax is paid - \$200 or more in taxes plus license fee per year.

They are licensed under section 61-3-321 MC

2. The other kind of motorcycle, used for off-~~road~~ highway vehicles (OHV) are made for the highway system and cannot be licensed.

- by design, slowed, geared low, no lights, etc.
- by definition in law

The OHV doesn't pay for license plates & tax

3.

but instead ~~pay~~ a fee between #26
and #36 a year.

It is the OHV that requires the fee.

HB 659 arose out of the complaints
to me by a constituent. I found
that others in Billings have had his
experience.

① Cooney dam county road around
the lake pull off the county road
to picnic area lakeside on public
land & ticketed by FWP

② In addition, I could drive up & park
next to the motorcycle with my new
Chevy 4x4 pickup (with "off road"
decal on rear fender) & not be
ticketed. Fairness

4.
23-2-802

do not want to upset the OLV
program supplying funds from
the local fee.

Want to solve the inconsistency
in the law that brings in the highway
motorcycle.

Amendments :

1. Needs effective date added
2. Mr. Del Amico has
worked up an amendment

EXHIBIT 6
DATE 2-21-91
HB 1259

PROPOSED AMENDMENT TO HB 659

1. Page 1, line 4.

Following: "TO"

Strike: "EXEMPT A MOTORCYCLE"

Insert: "PROVIDE LIMITED EXEMPTIONS"

2. Page 1, line 6.

Following: "THE"

Strike: "MOTORCYCLE"

Insert: "OFF-HIGHWAY VEHICLE"

3. Page 1, line 8.

Following: "SECTION"

Insert: "23-2-802 AND"

4. Page 1, line 11.

Insert: "Section 1. Section 23-2-802 is amended to read:

23-2-802. Exemptions. The provisions of this part do not apply to an off-highway vehicle, LICENSED MOTORCYCLE OR LICENSED QUADRICYCLE:

(1) owned or used by the United States or another state or an agency or political subdivision thereof;

(2) registered in a country other than the United States, temporarily used within this state for not more than 30 days; ~~or~~

(3) registered in another state of the United States, temporarily used within this state for not more than 30 days; OR;

(4) UTILIZED FOR FISHING AND HIKING ACCESS, CAMPING OR PICNICKING ON A VISIBLE TWO TRACK TRAIL OR ROAD WITHIN ONE MILE OF A DESIGNATED ROAD.

5. Page 1, line 11.

Following: "Section"

Delete: "1"

Insert: "2"

6. Page 1, line 13.

Following: "23-2-802"

Delete: "and subsection (4) of this section, no"

Insert: ",AN"

7. Page 1, line 14.

Following: "may"

Insert: "NOT"

8. Page 1, line 15.

Following: "recreation"

Insert: "OFF ROAD"

9. Page 1, line 24.

Following: "for"

Delete: "~~motorcycles and~~"

Insert: "MOTORCYCLES AND"

10. Page 2, line 24 through Page 3, line 2.
Delete.

EXHIBIT 60
DATE 2-21-91
HB 659

Amendments to House Bill No. 659
First Reading Copy (White)

For the Committee on Highways and Transportation

Prepared by Valencia Lane
February 21, 1991

1. Title, line 4.

Following: "TO"

Strike: "EXEMPT A MOTORCYCLE"

Insert: "PROVIDE LIMITED EXEMPTIONS"

2. Title, line 6.

Following: "THE"

Strike: "MOTORCYCLE"

Insert: "OFF-HIGHWAY VEHICLE"

3. Title, line 8.

Strike: "SECTION"

Insert: "SECTIONS 23-2-802 AND"

4. Page 1, line 11.

Following: line 10

Insert: "Section 1. Section 23-2-802, MCA, is amended to read:

"23-2-802. Exemptions. The provisions of this part do not apply to:

(1) an off-highway vehicle:

~~(1)~~(a) owned or used by the United States or another state or an agency or political subdivision thereof;

~~(2)~~(b) registered in a country other than the United States, temporarily used within this state for not more than 30 days; or

~~(3)~~(c) registered in another state of the United States, temporarily used within this state for not more than 30 days; or

(2) a licensed motorcycle or licensed quadricycle used for fishing and hiking access, camping, or picnicking on a visible two-track trail or road within 1 mile of a designated road."

Renumber: subsequent section

5. Page 1, lines 13 and 14.

Following: "23-2-802" on line 13

Strike: remainder of line 13 through "no" on line 14

Insert: ", an"

EXHIBIT 6
DATE 3-21-91
HB 659

6. Page 1, line 14.
Following: "may"
Insert: "not"

7. Page 1, line 15.
Following: "for"
Insert: "off-road"

8. Page 1, line 25.
Following: "~~and~~"
Insert: "motorcycles and"

9. Page 2, line 24 through page 3, line 2.
Strike: subsection (4) in its entirety

HB 593

EXHIBIT 7
DATE 2-21-91
HB 593

Testimony of Don Larson (D-Seeley Lake) Before the House
Highways and Transportation Committee, Thursday, Feb 21 HB593

Members of the Committee, I am Don Larson, House District 65, Seeley Lake. You have before you HB 593 a bill to revise slightly the Outdoor Advertising Act and allow certain signs adjacent to a Primary Highway.

Members of the Committee, this bill is an attempt to rectify a problem of discrimination. If you own a business enterprise off the primary highway in Montana, that is a mile or so off the highway, under the terms of our laws you cannot advertise your business, even if you get the permission of the private landowner proximate to your land.

Let me explain further. If I own a welding business on the highway, I can place a sign on my property advertising it. If that business is three or four blocks off the highway, I cannot advertise on the highway because I don't own the land on which the sign sits.

This bill will permit a businessperson to advertise his business within 600 feet of the road intersection that leads to his business, providing he can get the permission of the private landowner who owns that property.

This bill is not intended to effect a proliferation of highway signs; nor is it intended to jeopardize federal funding for our highways. The feds say if we violate their sign ordinances they will take our highway funds away.

This bill is intended to help small businessmen promote their businesses, and lord knows, they need all the help they can get in today's economic climate in Montana.

I notice some people from the highways department here, probably to appear as opponents. I also have proponents here. We are amenable to any changes which would both correct this deficiency in this law and bring it into conformity with the federal outdoor advertising act regulations.

I reserve the right to close, Mr. Chairman.

EXHIBIT

8

DATE

2-21-91

HB

593

House Bill 593

House Bill 593 amends section 75-15-111, MCA, which is a section of the Outdoor Advertising act. The section that is amended lists the exceptions to the ban on outdoor advertising.

This bill would add two more exceptions.

1. Signs that advertise the sale or lease of property, and
2. Signs that advertise activities conducted on property that is located within 600 feet of the intersection of a primary highway and the access route to the property.

The Department of Highways has a couple of problems with this bill. As you know, the control of outdoor advertising is mandated by the federal government. Section 23 U.S.C. 131 provides that states must have effective control of outdoor advertising. If a state does not have "effective control" it can lose up to 10% of its federal-aid highway funds. Montana currently receives about 100 million dollars in federal-aid highway funds.

The FHWA was sent a copy of this bill and their initial reaction was negative. They felt that the bill would lead to a proliferation of outdoor advertising along primary highways. We had hoped to get a written memo from them prior to this hearing; however, we did not. As soon as one is received, it will be forwarded to you for your consideration.

Aside from that problem, the bill has another one. Its provisions are unclear. As it presently reads, it would allow the advertising of land or businesses that are within 600 feet of the intersection of a primary highway and the access road to the property or the business. The bill does not specify where the sign has to be located. Therefore, as presently written, the sign could be located anywhere along a primary highway.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Highways COMMITTEE BILL NO. HB 743
DATE 2-21-91 SPONSOR(S) Rep. Scott
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
GARY GILMORE	MONT. DEPT OF HGHWYS		X

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

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

DATE 2-21-91 SPONSOR(S) Rep. Schye (Spok will present) COMMITTEE Highway BILL NO. HB638

PLEASE PRINT PLEASE PRINT PLEASE PRINT

[illegible]

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Highways COMMITTEE BILL NO. HB 659
DATE 2-21-91 SPONSOR(S) Rep. T. Nelson

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

[illegible]

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Huways COMMITTEE BILL NO. HB 588
DATE 2-21-91 SPONSOR(S) Rep Davis
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Anita Andrews</i>	<i>Home Services</i>	<i>X</i>	

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

Highways

COMMITTEE

BILL NO.

HB 593

DATE 2-21-91

SPONSOR(S)

Rep Larson

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
GERALD V. PARKER Box 493, Seeley Lake, MT. 59868	GEORGETOWN LAKE ESTATES	X	
Nick Rotering STAFF ATTORNEY	DEPT. OF HIGHWAYS		X
Robert S. Rasmussen	MT. ASSOCIATION OF PLANNERS		X
Carol Juneau	Self	X	
Waisy Malbreath	self	X	
Leonard Lard	self	X	
Angie Pollock	self	X	
Cheryl H. Brooke	Self	X	
William many sides	self	X	
Peter Tatsay	self	X	

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Hiway COMMITTEE BILL NO. HJR 37
DATE 2-21-91 SPONSOR(S) Rep. Gervais
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Robert Dobrowolny	Babb Area	✓	

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