

## **MINUTES**

### **MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION**

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

**Call to Order:** By SENATOR CECIL WEEDING, Chairman, on March 12, 1991, at 3:00 p.m.

#### **ROLL CALL**

**Members Present:**

Cecil Weeding, Chairman (D)  
Betty Bruski, Vice Chairman (D)  
Bill Farrell (R)  
John Harp (R)  
Francis Koehnke (D)  
Jerry Noble (R)  
Jack Rea (D)  
Lawrence Stimatz (D)  
Larry Tveit (R)

**Members Excused:** None.

**Staff Present:** Paul Verdon (Legislative Council).  
Pat Bennett, Secretary

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

**Announcements/Discussion:** Chairman Weeding informed the Committee that John Rothwell, Director of the Department of Highways, would be present to answer questions pertaining to HB 306 following the hearings.

#### **HEARING ON HOUSE BILL 62**

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

REPRESENTATIVE BARRY STANG, District #52, stated his district has Look Out Pass which is the most troubled entrance to the State. This pass currently has 25% of the traffic coming into and going out of the State of Montana. In the winter time, the current regulations for a sign states "chains required for towing units", but this seems to be unenforceable. The maintenance crew in that area have become upset. They get half way up that pass and there will be a truck jack knifed because it was not chained up. Currently, Washington and Oregon have restrictive laws dealing with tire chains.

Proponents' Testimony:

CURT LAINGAN, representing the Montana Motor Carriers Association, testified in support of HB 62 on the bases they put cars back into the bill.

BILL STRIZICH, Chief Engineer for the Highway Department, stated the Department supports HB 62. (SEE EXHIBIT 1) The Department has some suggested amendments for HB 62. (SEE EXHIBIT 2) He stated that with the amendments, House Bill 62 would just legitimize what they are already doing. Without these amendments, in order to place the necessary restrictions the only alternative is road closure.

Opponents' Testimony:

None.

Questions From Committee Members:

SENATOR TVEIT asked Mr. Strizich to explain the amendments.

MR. STRIZICH stated that if you strike the House amendments the bill will be back to its original form. He stated they are proposing that the word "all" be struck and the word "vehicles" be inserted in place of "trucks and truck trailer combination" this would allow the discretion to put chain restrictions on towing units.

SENATOR REA asked if it would apply to four wheel drives?

BILL STRIZICH stated that it would.

CHAIRMAN WEEDING asked Mr. Strizich if it his desire to put "driver wheels" put back in.

BILL STRIZICH stated that he sees no reason to put that back in.

SENATOR FARRELL asked who establishes the rules.

PAUL VERDON stated that the vehicle rules are established by the Department of Justice.

SENATOR FARRELL asked what the penalty is.

REPRESENTATIVE STANG stated that would also be under the rules established by the Department of Justice.

PAUL VERDON stated that the standard penalties in Title 61, Chapter 9 apply.

SENATOR FARRELL asked what a person would be written up on.

PAUL VERDON cited from Chapter 6, 61-9-511, which states it is a misdemeanor for any person to violate any provision of this chapter.

SENATOR FARRELL stated that basic rule is a misdemeanor which is a lot stiffer penalty than a \$25 misdemeanor fine.

Closing by Sponsor:

REPRESENTATIVE STANG closed the hearing on House Bill 62. He stated that he was in agreement with Senator Farrell in that we should be sure a person can not be cited for basic rule.

HEARING ON HOUSE BILL 63

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE BARRY STANG, District #52, informed the Committee that House Bill 63 was introduced at the request of the Public Service Commission. (SEE EXHIBIT 3)

Proponents' Testimony:

WAYNE BUDT, Administrator of the Public Service Commission, testified in support of HB 63. (SEE EXHIBIT 4) He stated that the bill clarifies that if a Class C carrier hauls more than 6 contracts, he is in violation of his certificate. The law has been interpreted by some, that a carrier who has is if they have 7 contracts automatically becomes a Class B carrier. That was not the intent of the law; the intent was to limit carriers to 6 contracts only.

Opponents' Testimony:

None.

Questions From Committee Members:

SENATOR HARP asked who would be affected by this bill.

WAYNE BUDT stated that at the present time no one is affected.

PATRICIA SAINDON, Administrator of the Transportation Division, Department of Commerce, stated there are two elderly and handicapped providers who have at least six contracts and they are in violation of PSC authority.

SENATOR HARP stated he thought they had been excluded them from the bill.

PATRICIA SAINDON informed Senator Harp that the bill he speaks of has not passed through the House yet. If it does pass the House there would be no problem.

Closing by Sponsor:

REPRESENTATIVE STANG closed the hearing on HB 63.

HEARING ON HOUSE BILL 83

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE BARRY STANG, District #52, opened the hearing on HB 83. (SEE EXHIBIT 5) He stated he has had a number of truckers in his district that haul overweight and live in the Frenchtown area. Often times they don't get their load until late Saturday night and they want to leave Sunday. The only way they can get that permit is by driving in their personal car to the Drummond scale.

Proponents' Testimony:

GARY GILMORE, Administrator of the Operations Division, Department of Highways, testified in support of HB 83. He stated that it enhances their ability to offer better permit service to the trucking industry. Currently the truck driver entering the state with an oversize load must obtain a permit before crossing the state line. In many cases, where a wire service is not available and this procedure requires the driver to either drop his load or send a pilot car ahead to the next scale. With the passage of HB 83, the GVW Division could take in information from the driver by telephone, fill out a permit, give the operator an authorization number and allow him to proceed.

BEN HAVDAHL, Montana Motor Carriers Association, asked to be put on record in support of HB 83.

Opponents' Testimony:

None.

Questions From Committee Members:

None.

Closing by Sponsor:

REPRESENTATIVE STANG closed the hearing on HB 83

HEARING ON HOUSE BILL 87Presentation and Opening Statement by Sponsor:

REPRESENTATIVE BARRY STANG, District #52, stated HB 87 was at the request of the Department of Highways. This bill is meant to handle emergency situations; it is not meant to close down section houses in Montana or take away Montana jobs. (SEE EXHIBIT 6)

Proponents' Testimony:

TOM BARNARD, Chief Engineer, Department of Highways, testified in support of HB 87. He stated that at the present time they do not have the authority to go across one of the state lines. On I-90 going from Billings into Wyoming it is quite common that Wyoming will get a serious snow storm and Montana won't have any. The only complication with liability would be a question of jurisdiction. He stated that beyond that there would be no other implications with liability.

Opponents' Testimony:

JOHN MANZER, representing the Teamsters Union, as well as the Public Employees Craft Council, stated they are opposed to HB 87. Liability is a major concern with HB 87. He stated they have discussed with their legal counsel regarding what kind of liability there would be with an employee taking a vehicle into another state. Under the new DOT regulations you can operate a vehicle in the State of Montana as a highway worker over 26,000 pounds with a 2A license. In order to be able to operate in Idaho, you would have to have a 1A license. He stated that the two he represents have very few employees who would be affected. The employee working for the Highway Department does not want this bill.

MARK LANGDORF, Field Representative for the American Federation of State, County, and Municipal, testified against HB 83. (SEE EXHIBITS 7 & 8)

Questions From Committee Members:

SENATOR HARP asked Tom Barnard if the Department would specify within the agreement with another state how far a worker would be allowed to work and whose jurisdiction that worker would be responsible to.

TOM BARNARD said they would do that.

SENATOR HARP asked if this would take work away from state workers.

TOM BARNARD stated it has absolutely nothing to do with privatization.

SENATOR TVEIT asked about the 1A license.

TOM BARNARD said there is a national policy on drivers licenses for trucks. Whatever Wyoming or Idaho requires, the Montana drivers will have to have the same thing because it is federal legislation.

SENATOR REA asked how many requests the Department expects to have.

TOM BARNARD stated he estimates throughout the whole state within a year's time there may be only a half dozen requests.

SENATOR KOEHNKE asked how far they would set the limit.

TOM BARNARD stated they would have to work out some limits. He stated that short of a major catastrophe, this would not apply for more than ten miles.

SENATOR TVEIT asked Representative Stang if he would agree to putting a statement of intent on HB 87.

REPRESENTATIVE STANG stated it is very important to put in a statement of intent and specifically list the emergency situation, the number of miles, and the liability issues.

Closing by Sponsor:

REPRESENTATIVE STANG closed the hearing on HB 87. He stated that this bill is a good concept which the Highway Department has needed for a long time. Representative Stang said if the Committee could come up with a statement of intent that the Highway Department would agree with, it would be all right with him. He stated it was not his intent to take jobs out of Montana.

EXECUTIVE ACTION ON HOUSE BILL 63

Motion:

SENATOR HARP MOVED that HB 63 BE CONCURRED IN.

Discussion:

SENATOR HARP will carry HB 63.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

MOTION PASSED UNANIMOUSLY that HB 63 BE CONCURRED IN.

EXECUTIVE ACTION ON HOUSE BILL 83

Motion:

SENATOR NOBLE MOVED that HOUSE BILL 83 BE CONCURRED IN.

Discussion:

SENATOR FARRELL will carry HB 83.

Recommendation and Vote:

MOTION PASSED UNANIMOUSLY that HB 83 BE CONCURRED IN.

EXECUTIVE ACTION ON HOUSE BILL 87

Motion:

SENATOR NOBLE MOVED that HB 87 BE CONCURRED IN.

Discussion:

SENATOR FARRELL will carry HB 87.

Recommendation and Vote:

MOTION PASSED UNANIMOUSLY that HB 87 BE CONCURRED IN.

HEARING ON HOUSE BILL 588

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE ERVIN DAVIS, District #53, stated House Bill 588 would allow a person holding a valid and current driver's license in another state who wishes to be a permanent resident of Montana to relinquish his license. This person would be exempt from the written and driving tests but not the vision test. They would not be exempt from any of the fees. This bill only applies to passenger car license. Representative Davis distributed a suggested amendment to HB 588. (SEE EXHIBIT 9)

Proponents' Testimony:

ANITA DREWS, Chief Examiner for the State Licensing Bureau, testified in support of HB 588 with the suggested amendments. The amendment does allow the opportunity to examine an out of state applicant if the bureau feels the discretion that there could be any question of the applicant's safety ability. She stated they did not want to relinquish that authority.

Opponents' Testimony:

None.

Questions From Committee Members:

SENATOR FARRELL asked how many states do not test at all to get a driver's license.

ANITA DREWS stated she was not aware of any state currently that is not testing. On commercial licensing they are exchanging licenses for out-of-state licenses.

SENATOR FARRELL asked Anita Drews to check the state of Nebraska. He stated that in Nebraska if you have a mailbox you can get a driver's license without any testing.

Closing by Sponsor:

REPRESENTATIVE DAVIS closed the hearing on HB 588.

EXECUTIVE ACTION ON HOUSE BILL 588

Motion:

SENATOR NOBLE MOVED that HB 588 BE CONCURRED IN AS AMENDED.

MOTION PASSED UNANIMOUSLY that HB 588 BE CONCURRED IN AS AMENDED.

Discussion:

SENATOR NOBLE will carry HB 588.

Amendments, Discussion, and Votes:

SENATOR NOBLE MOVED the amendments to HB 588. (SEE EXHIBIT 9)

Recommendation and Vote:

MOTION PASSED TO ADOPT THE AMENDMENTS TO HB 588.

EXECUTIVE ACTION ON HOUSE BILL 306

Motion:



None.

Discussion:

JOHN ROTHWELL, Director of the Department of Highways, explained to the Committee that the statute requires in 61-8-303, 309, & 310, that any speed limits be set after a traffic study. The manual for traffic control, which is backed by Northwestern University, states that in order to determine the proper demerit value for a speed zone on a basis of a traffic and engineering investigation, the following factors should be considered: road surface, 85% speed, road side development and culture, safe speeds in hazardous locations, parking practices and pedestrian activity report for a recent 12 month period. When the speed study is done, the speed limit is set at 85% of what the people are driving. Numerous studies have proven that if that speed limit is set too low you can cause accidents. He stated that he has talked to the Director in North Dakota and they base their same study on the 85th percentile. North Dakota has formed the DOT and they put the Highway Patrol under the DOT and when they have a speed study they send out four highway patrolmen to enforce it. He stated that the two hot spots are Seeley Lake and Belgrade. When this bill was in the house Mr. Rothwell said he informed the committee that if they wanted to put in an amendment into the speed zone section that a local government can reduce the speed set 20% below the speed zone study that the Department would not oppose it. In the House it was amended to a 30% reduction. If the speed limits are set artificially low the Department is accused of setting speed traps. He stated they are concerned about that if they get into a 30% reduction. The Northwestern University will come in on the 26th of March for a training session and informational session with the commission. These people will look at the studies done in Seeley Lake and Belgrade.

SENATOR FARRELL asked how they can justify their traffic study in a school zone when the study was done in August when the kids are not around.

JOHN ROTHWELL stated that in Seeley they did a second study during school hours and the result was identical to the first study. It has been a policy of long standing in the Department of Highways to obtain a concurrence of either the Montana Highway Patrol, County Officials or City Police, depending on who has jurisdiction on any proposed speed zone.

SENATOR HARP questioned the study done by the Northwestern University.

JOHN ROTHWELL stated they hired Northwestern University in 1985 to take a look at their speed zone policy. The Montana speed zone is highly consistent with recommendations made by the Institute of Transportation Engineers. The Montana study was compared to the speed zone study of Texas, Illinois and Ohio. The studies done by Illinois and Ohio tend to be more analytical, where the Montana and Texas studies tend to be more judgmental. All four state policies considered the same packages as modifying the 85th percentile speed. All placed fundamental reliance on the measurement of prevailing speeds in the use of the 85th percentile as a primary indicator of a appropriate speed limit. He stated that the problem he sees is that the four items you cover are very judgmental. He submitted a copy of the University study. (SEE EXHIBIT 10)

SENATOR NOBLE asked just how much input these people who are there day after day have. He stated that perhaps the engineers need to be told to not use their slide rule so much, but rather listen a little more.

JOHN ROTHWELL stated that he agreed with that. However, in the Belgrade study there were half who were for it and half who wanted it left alone. He stated that he has a deep concern for school zones. He also stated that while he believes that the 30% is too much, but that he still does not have any problem with the governmental entity, city or county having the leeway in a school zone to lower that traffic study by 20%.

SENATOR REA stated that this is not addressing the problem. There is a speed limit that is too fast now, the need is to lower the speed limit.

JOHN ROTHWELL stated that most people are driving over that speed limit anyhow.

SENATOR STIMATZ stated he was bothered because they had a well informed police sergeant, Rick Dighans who has 15 years experience with radar, who said they took the speed readings and did not get within 15 miles of what the Department's tester did on any car. Mr. Dighans told the Committee that he gave this information to the Department and the Department ignored it.

JOHN ROTHWELL said they have done a study in Belgrade twice and they would certainly do it again. The Highway Department does not set the speed limits, the Highway Commission does.

SENATOR NOBLE stated that John Rothwell should have some departmental policy that is set up different. He asked John Rothwell if they feel going to 20% would be all right.

JOHN ROTHWELL stated that he came up with the 20% for school zones. He stated that while he feels they have some very good engineers, his comment to the engineering staff was to get more flexible or they may end up with a bill they don't like very well.

ADJOURNMENT

Adjournment At: 5:05 p.m.



SENATOR CECIL WEEDING, Chairman



PAT BENNETT, Secretary

CW/pb

HB 62  
Written Testimony

SENATE HIGHWAYS

EXHIBIT NO.

1

DATE

3-12-91

BILL NO.

HB 62

The Department of Highways supports HB 62 but would like to propose some language changes to the bill as currently amended. The bill, as written, authorizes the department to recommend or require traction devices only on trucks and truck-trailer combinations. This wording is overly restrictive.

The department must place chaining restrictions frequently during the winter. Usually these restrictions apply only to towing units but sometimes it is necessary to require traction devices on all vehicles. The current language in HB 62 doesn't provide for chains to be required either on all towing units or on all vehicles.

The problem is that a towing unit can be any vehicle towing any other vehicle, such as a car or pickup towing a U-haul or travel trailer. Any such vehicle combination will cause the same problems when it spins out on an icy grade as does a truck or truck-trailer combination. For this reason the language in House Bill 62 should not be overly specific. The language must allow that traction devices can be required on driving wheels of vehicles that need such devices.

The department must be able to control highway use as necessary to ensure safety. When appropriate traction equipment is not used, then accidents, delays, or road closures usually result.

The department proposes HB 62 be amended by deleting specific reference only to "truck and truck trailer combinations" throughout the bill.

Proposed amendments are attached.

3/12/91

AMENDMENTS TO HB 62  
THIRD READING COPY

SENATE HIGHWAYS

COMMITTEE NO. 2

DATE 3-12-91

BILL NO. HB 62

1. Title, Line 6  
Following: "FOR"  
Strike: "TRUCKS AND TRUCK TRAILER COMBINATIONS"  
Insert: "VEHICLES"
2. Page 2, Line 25  
Following: "FOR"  
Strike: "TRUCKS AND TRUCK TRAILER COMBINATIONS"  
Insert: "VEHICLES"
3. Page 3, Line 3  
Following: "for"  
Strike: "all"
4. Page 3, Line 4  
Strike: "TRUCK AND TRUCK TRAILER COMBINATIONS"  
Insert: "VEHICLES"
5. Page 3, Line 17  
Strike: "determined FOR TRUCK AND TRUCK TRAILER COMBINATIONS."
6. Page 3, Lines 23, 24  
Strike: "TRUCK AND TRUCK TRAILER COMBINATION"

WSS:D:MTC:by:2.gh

SENATE HIGHWAYS

EXHIBIT NO. 3

DATE 3-12-91

HB 63 BILL NO. HB 63

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.

This bill is introduced at the request of the Montana Public Service Commission. It amends an existing statute to more clearly reflect prior legislative intent in distinguishing between Class B and Class C motor carriers. Class C contract requirements are more specifically stated with the proposed new wording of the statute.

SENATE HIGHWAYS

EXHIBIT NO. 4

DATE 3-12-91

BILL NO. 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 Bill 83**

*Rep - Jan*  
SENATE HIGHWAYS

EXHIBIT NO. 5

DATE 3-12-91

BILL NO. HB 83

House Bill 83 authorizes the issuance of oversize and over-weight permit authority by telephone.

This bill aims to increase customer service to permit users.

This bill also provides a vital segment to an eventual computerized permit program.

Currently, truckers must obtain a permit for an oversize load before they enter the state. Only weigh stations, district highway offices and the Helena GVW permit office issue oversize permits. Allowing the trucker to receive an authorization number from the GVW permit office and to proceed to the first scale would ease the burden to truckers when obtaining permits.



HB 87 - An act authorizing the Department of Highways to enter into agreements with adjoining states and providences for the purpose of exchanging maintenance services

MONTANA DEPARTMENT OF HIGHWAYS  
2701 Prospect Avenue  
Helena, MT 59620

The following is provided to explain the purpose for entering into a multi-state maintenance agreement at remote locations of state boundaries where federal highways, both primaries and interstate, change jurisdictions. While a specific example of I-90 in the vicinity of the Montana-Wyoming border will be used to illustrate the need, the requirements may be equally applicable at other Wyoming, Idaho, North Dakota and South Dakota boundaries.

1. While many of our outlying sections are limited in personnel and equipment, it may often be the case that the adjoining state maintenance section would have a substantial amount of equipment and personnel.

In the case of I-90, the State of Montana, Department of Highways has a compliment of five men assigned in Lodge Grass with five plows. For an extended storm where shift work would be required, the maximum number on duty at any one time would be three people trying to cover an area of forty-three miles of interstate. During such periods, we have a significant amount of trouble with the long grade on Aberdeen Hill and the icing that occurs. It is physically impossible for us to keep up with the demands of heavy truck traffic.

However, just above the hill on the other side of the state line, the Sheridan section has fourteen plows and one rotary and a comparable number of operators, along with less miles of interstate to attend to. It is possible for them on an extended basis to muster out seven or eight people per shift, easily reaching our area extremities at Aberdeen Hill.

2. Areas remote to population centers generally do not justify a large complement of service personnel. Such is the case at Lodge Grass; even the people assigned there are more than what generally occur in most outlying areas. Again, on the other side of the state line with Sheridan in the near proximity, there is a justification for the Wyoming Highway Department to have a larger complement of people available. As such, between the two states it makes it possible to share manpower availability during optimum times, thus providing reinforcements on either side of the state line at critical times.
3. It is important to recognize that storms vary in intensity geographically, particularly where hills and mountains adjacent to flat lands are concerned. It is possible that a

storm system may pass through and dump a significant amount of snow on an upper plateau while totally missing the adjacent canyons and hill areas. In such cases, the demand in one instance may be in the plateau area, and on another occurrence it may be in the approaching canyons. This again is true for the Aberdeen area where a large amount of snow may be dumped on the plateau approaching Sheridan, and at such a time, we may have no problem maintaining the Aberdeen Hill. In such cases, we could potentially assist the Sheridan crews in removing snow up on the plateau in order to avoid or minimize costly or inconvenient road closures. At other times, the snow, ice and drifting may occur in the hilly areas approaching the plateau, in which case, the Wyoming crews could assist us in maintaining hazardous areas, again avoiding costly and inconvenient closures.

4. We also need to be aware that surface affects of a storm can be significantly different geographically. Because of different ambient surface temperatures, icing can become a factor in moderate snow storm in one region where an adjacent area may not be significantly affected. Again, in such cases, across-border assistance can greatly relieve this problem.

In conclusion, it is our opinion that, in order to improve our service to the traveling public as they continue from one locale to another, it is to both our advantage and the adjoining states' to enter into such a mutual assistance program.

SENATE HIGHWAYS

EXHIBIT NO.

7

DATE

3-12-91

BILL NO.

HB87

3/12/91

HB 87

Good afternoon Chairman Weeding and members of the committee, my name is Mark Langdorf, Field Representative for the American Federation of State, County, and Municipals. AFSCME represents 350 blue collar highway workers in the state of Montana.

AFSCME, thanks Representative Stang for all the work he has put into this bill on behalf of the highway employees. In house committee, many questions were asked of the Department of Highways as to industrial and occupational accident liability. The department's response to these questions were along the lines of "we will work that out in the agreement". This reminds me of the used car salesman whom insists that you take the unit home to the wife to see and then says will work out the financing and insurance after the fact because your credit is good with us.

I have handed out to you a list of questions which, the employees affected feel need to be addressed. I encourage the committee to find the answers to these concerns as well as what the intent of this bill is before giving it a due pass.

I think the committee will find that this piece of legislation serves no purpose or benefit to the Montana highway system.

SENATE HIGHWAYS

EXHIBIT NO. 8

DATE 3-12-91

BILL NO. HB 87

MARK  
Langsdorf

**PLEASE TAKE NOTICE  
HB87**

House Bill 87 does not address the issue of liability for industrial accidents involving highway workers not working in their home state.

House Bill 87 does not address how far out of state workers can work in a neighboring state.

House Bill 87 does not address what constitutes an emergency.

If called upon to work out of state, will Montana highway workers be able to maintain instate sections with as high a degree of work quality as they do now when placed in a situation which may call them out of state?

In affect are will not contracting out our state highway work to another state rather then taking care of our own responsibilities?

When working out of state which state's highway policy does the worker follow?

The American Federation of State, County and Municaipal Employees represents over 350 state highway workers and these employees do not endorse this <sup>bill</sup> without these questions being answered ~~by~~.

EXHIBIT NO.

9

DATE

3-12-91

BILL NO.

HB 588

Amendments to House Bill No. 588  
Third Reading Copy

Requested by Representative Davis  
For the Senate Committee on Highways and Transportation

Prepared by Paul Verdon  
March 8, 1991

1. Page 2, line 8.

Strike: "A"

Insert: "Except as otherwise provided by law, a"



**The Traffic Institute**  
Northwestern University

SENATE MINUTES

EXHIBIT 10

DATE 3-12-91

BILL NO. HB 306

EVALUATION OF MONTANA  
DEPARTMENT OF HIGHWAYS  
SPEED ZONING POLICIES AND PRACTICES

Prepared by

Robert K. Seyfried, P.E.  
The Traffic Institute  
Northwestern University

February 28, 1985

## INTRODUCTION

The Traffic Institute, Northwestern University was contacted by the Montana Department of Highways and requested to: (1) evaluate the Montana policy on establishing speed zones and (2) review several recent speed zoning decisions. The purpose of this study was to compare speed zoning, as practiced in Montana, with generally accepted traffic engineering principles and practice throughout the United States. The study was performed by Mr. Robert K. Seyfried, Associate Director, Transportation Engineering Division, The Traffic Institute (resume appended to this report).

This study included an evaluation of the Montana Department of Highways published policy on establishing speed zones, discussions with key Department of Highways personnel, a personal inspection of the sites of four recent speed zoning decisions in Montana, and two separate presentations of findings before the State Highway Commission, members of State legislative Highway Committees, and the State Highway Patrol.

This report documents the findings of the study.

## PHILOSOPHY OF SPEED ZONING

Establishing realistic speed regulation and control is essential to the safe and efficient movement of people and goods on the highway system and within communities. However, as with any traffic control decision, speed zoning cannot be dealt with solely as an engineering issue. In order to be effective, speed zoning must be addressed using the "3-E" approach: Engineering, Education and Enforcement.

Relative to speed zoning, the Engineering input involves the design of the roadway and roadside, measurement of traffic characteristics (such as traffic volumes and speeds, pedestrian volumes, accident history, etc.), and setting and posting speed limits.

The Education input involves educating the traveling public as to the importance of speed regulation and the development of driver judgment to recognize and respond to roadway and roadside conditions which require the driver to adjust his or her speed to something less than the established speed limit. Education is not simply limited to driver education within the school system. Education also involves being able to maintain the credibility of the traffic control devices placed along the roadway so that the drivers will understand the need for traffic regulations, and the vast majority of drivers will voluntarily comply with the regulations.

The Enforcement element of speed zoning involves identifying those drivers who are unable or unwilling to exercise good judgment in selecting appropriate speeds. Through apprehension and the judicial process, we attempt to modify the behavior of these drivers.

In any traffic control decision, including establishing speed zones, all of the 3-E's must be present and coordinated if we are to achieve the goals of safety and efficiency of traffic movement on the highways and within the communities.

## EVALUATION OF MONTANA SPEED ZONING POLICY

Establishment of speed zones within Montana is based primarily on a measurement of prevailing speeds under light volume, free-flow traffic conditions on the road. A sample of vehicle speeds are measured and, in general, the speed limit is set at the

"85th percentile" speed (rounded to the nearest 5 mph increment). This is the speed at or below which 85 percent of the drivers travel. Montana policy permits possible modifications to this speed based on factors such as accident history, geometric design, sight distance, traffic volumes, frequency of intersections and driveways, pedestrians, parked vehicles, and density and type of roadside development.

Inherent to this approach to establishing speed limits is the presumption that the large majority of drivers (85 percent) behave reasonably and are capable of perceiving conditions along a road which may require a speed reduction and react accordingly. By setting the speed limit at a level which will be voluntarily complied with by the large majority of motorists, it then becomes possible to focus enforcement actions against the relatively few (15 percent) who cannot or will not behave reasonably. If the speed limit were set at an artificially low level, enforcement personnel would not be able to discriminate between the few aberrant drivers who select excessive speeds and the large number of drivers who select reasonable speeds; all would be classified as "speeders".

Another reason that the 85th percentile speed is used as a basis for establishing speed zones is that it typically corresponds with the upper limit of the 10 mph "pace". The pace is defined as that 10 mph range of speeds which contains the largest percentage of drivers on the road. Numerous highway safety studies have consistently found that drivers are safest (have the lowest accident involvement rate) when they travel at a speed within this 10 mph pace. That is, drivers are safest when they travel at a speed close to that of most other drivers on the road. Accident involvement rates increase for drivers who travel at speeds that are either much higher or much lower than the majority of the other vehicles. By setting the speed limit at the upper limit of the pace, at the 85th percentile speed, we tend to encourage drivers to drive within this safest range of speeds.

The 85th percentile speed concept has been used for many years throughout the United States as a fundamental basis for establishing speed zones. For example, the Transportation and Traffic Engineering Handbook, published by the Institute of Transportation Engineers, indicates that "The 85th percentile speed as determined by speed studies is a principal factor to be used in the determination of proper speed limits."

The Montana policy on speed zoning is highly consistent with practices recommended by the Institute of Transportation Engineers and practices followed other states throughout the country. The Montana policy was specifically compared with the speed zoning policies of Texas, Illinois, and Ohio as part of this study. State policies in Illinois and Ohio tended to be more analytical in dealing with factors that might modify the 85th percentile speed (such as roadside conditions, accidents, volumes, etc.). The Montana and Texas policies tended to be more judgmental in considering these factors. However, all four state policies considered essentially the same factors as possibly modifying the 85th percentile speed, and all four placed fundamental reliance on the measurement of prevailing speeds and the use of the 85th percentile speed as a primary indicator of the appropriate speed limit.

In summary,

- The large majority of drivers can and do recognize a safe and appropriate speed for prevailing conditions along a road,



- ° Realistic speed zones allow enforcement personnel to concentrate their efforts on the relatively few drivers who cannot or will not exercise good judgment, and
- ° A speed zone set unrealistically low will
  1. be ignored by a large percentage of drivers;
  2. resulting enforcement activity will be perceived as harrassment (drivers will think of it as a "speed trap"); and
  3. the judicial system will not be able to effectively distinguish between drivers who do and do not exercise good judgment.

Sometimes, in establishing speed zones, the governmental body cannot set the limits at a level that community residents perceive as appropriately low. When this happens, speed zoning decisions tend to be highly controversial. Montana is certainly not alone in this problem; it occurs throughout the country. Many times this type of controversy develops because of the many popular misconceptions about speeds and speed limits. Some of these are discussed as follows:

1. It must be recognized that it is not possible to set speed limits that are appropriate for all possible conditions. Speed zones are established for favorable weather and traffic conditions. Drivers must be responsible for adjusting their speeds in response to traffic, weather, or other conditions that are less than optimal.
2. Raising the speed limit to be consistant with the 85th percentile speed does not generally affect traffic speeds. Studies in rural and urban areas in Montana, Minnesota, California, Illinois, South Carolina, and other states have consistantly found no significant changes in pervailing speeds when speed limits were increased to the 85th percentile level.
3. Drivers do not characteristically drive 5 mph higher than the speed limit. The vast majority of drivers simply drive at a speed that they perceive as being safe and reasonable. A possible exception to this is the 55 mph national speed limit. This limit was established as a national policy rather than based on the 85th percentile speed. As a result, a large percentage of motorists may consider that a higher speed is safe and reasonable on some highways. These motorists may select a speed about 5 mph above the 55 mph limit because they perceive this as an enforcement tolerance. Driver behavior with regard to the 55 mph speed limit can not generally be related to lower speed limits.
4. Experience has shown that speed limits set below the 85th percentile speed will not result in lower traffic speeds unless there is a consistent, conspicuous enforcement activity. The presence of police personnel, conspicuously enforcing the speed zone typically results in about a 10 percent speed reduction by all vehicles for a distance of 3 to 4 miles. After enforcement activity is discontinued, the speed reduction affect quickly disappears.

5. Lower speed limits do not necessarily reduce accidents nor do higher speed limits necessarily increase accidents. Numerous studies have found that lower speeds tend to be associated with a reduction in accident frequency and severity. However, it is important to recognize the distinction between lower speeds and lower speed limits.

## REVIEW OF RECENT SPEED ZONING DECISIONS

As part of this study, 4 recent speed zoning decisions by the Montana Department of Highways were reviewed. Information in Department files related to the speed zoning decisions was analyzed and each of the 4 sites was inspected during the period of January 21 - 23, 1985. The 4 speed zoning decisions reviewed included:

1. U.S. Route 2, Poplar
2. State Routes 41 and 287, Twin Bridges
3. U.S. Route 89, Neihart
4. U.S. Route 93, Missoula (near Miller Creek Road)

We are in basic agreement with the speed zoning decisions of the Department of Highways at all 4 locations. At some locations, we might have exercised different judgment in minor details concerning the location of the transition speed zones at the entrance to the community. However, we are in full agreement on the fundamental issue of the appropriate basic speed limit at each of these locations. We believe that the Department of Highways has exercised appropriate judgment and has followed well recognized and commonly used traffic engineering practices and procedures in establishing these speed zones.

The following comments concerning each of these speed zoning decisions are appropriate:

U.S. 2, Poplar. The basic speed limit through this community was established at 30 mph. This is consistent with the measured 85th percentile speed. This section is not identified as a high-accident location. Sight distance along the roadway appears to be adequate and there do not appear to be any roadway or roadside conditions which are not readily apparent to the motorist that would suggest a need for modification of the 85th percentile speed.

Roadside development begins abruptly at the west end of the community. This makes it difficult to achieve normal transition speed zoning to reduce the speed of approaching vehicles. The driver is normally transitioned through a series of successively lower speed limits as he approaches the built-up area of a community. To be successful, such transition speed zones must be consistent with the density of roadside development, so that the driver will perceive a need to gradually slow down. At the west end, because of the dramatic change in the character of roadside development (from rural to built-up), the transition speed zones had to be compressed into as short a distance as was practical. At the east end of the community, relatively sparse development extends a considerable distance beyond the denser developed portion of town. As a result, the transition speed zones extend for greater distances than at the west end. At the east end, the 50 mph speed zone could have been extended an additional 1000 feet farther east consistent with roadside development and measured speeds.

For the speed zones established, there appears to be adequate visibility of the marked school crosswalks, with one exception. There may be a sight obstruction created by vehicles parked along the south side of the street immediately adjacent to the western school crosswalk. Serious consideration should be given to prohibiting parking in this area.

State Routes 41 and 287, Twin Bridges. The basic speed limit through this community was established at 30 mph. This is consistent with the measured 85th percentile speed. This section is not identified as a high-accident location. Sight distance along the roadway appears to be adequate except as noted below. The roadway through this community provides for 4 lanes of moving traffic. If anything, the 30 mph limit appears to be slightly restrictive.

There appears to be a minor sight distance restriction at the T-intersection with Route 41. Parked vehicles on the east side of the road, north of the intersection make it necessary for vehicles on Route 41 to move forward past the stop sign in order to obtain a clear view of southbound traffic.

Transition speed zones at the north and south ends of the community appear to be consistent with prevailing speeds and roadside development, as designed. The beginning of the 40 mph speed zone for northbound traffic at the south end of the community could be moved somewhat further south. Placing the speed limit sign closer to the beginning of the horizontal curve would provide better advance visibility of the sign.

U.S. Route 89, Neihart. The basic speed limit through this community was established at 40 mph. This is consistent with the measured 85th percentile speed. This section is not identified as a high-accident location. Sight distance along the roadway appears to be adequate and there do not appear to be any roadway or roadside conditions which are not readily apparent to the motorist that would suggest a need for modification of the 85th percentile speed.

The roadway through this community is subject to peaks of recreational traffic during certain periods of the year. For relatively short periods of time, traffic congestion, aggravated by extensive parking on and adjacent to the roadway, is said to be of concern to the community. However, speed zones, if they are to be effective, must be based on conditions that prevail throughout most of the year when traffic volumes are low and conditions conducive to safe and efficient travel at 40 mph. Experience indicates that drivers can and do respond to restrictive conditions during peak traffic periods by reducing speeds.

Roadside conditions suggest that the 50 mph transition speed zone at the south end of the community could be ended about 1000 feet farther north, at the north end of a horizontal curve. The curve design appears adequate for 55 mph speeds and roadside development essentially terminates at this location. The 40 mph speed zone could be extended about an additional 500 feet at both the north and south ends of the community. Although the transition speed zones as designed are consistent with prevailing speeds of traffic, the roadside development in this community is of approximately uniform density for this additional distance beyond the end of the 40 mph zone as designed. This is a judgmental issue which does not affect the overall appropriateness of the basic 40 mph speed zone in this community.

U.S. Route 93, Missoula (at Miller Creek Road). The speed limit on Route 93 was established at 55 mph to a point approximately 450 feet east of the Miller Creek

Road intersection. This is consistent with the prevailing speed of traffic at this location and consistent with the drivers' perception of roadside development. Although there is a residential subdivision south of U.S. Route 93, it is well separated and screened from the roadway by a railroad right of way, fences, and vegetation. There is no access to the subdivision west of Miller Creek Road. As a result of these conditions, the motorist has no perception of roadside development until east of the intersection with Miller Creek Road. At this location, motorists respond to the presence of roadside commercial establishments by reducing their speeds. The location of the beginning of the 45 mph speed zone is consistent with this driver perception and behavior.

The stop sign controlled approaches of Miller Creek Road appear to provide the driver with adequate sight distance in both directions along U.S. Route 93. Although some accidents have occurred at this intersection, it is not considered a high-accident location. Reported accidents have averaged about 1 per year for the period 1972-1983. The section of highway which includes this intersection (as well as a bridge west of the intersection) has an accident rate about 10 percent higher than the Montana statewide average accident rate for primary routes and an accident severity rate which is below the statewide average.

## APPENDIX

Resume  
Robert K. Seyfried, P.E.

## RESUME

Ex. 10

3-12-91

HB 306

ROBERT K. SEYFRIED

The Traffic Institute  
Northwestern University  
555 Clark Street  
P.O. Box 1409  
Evanston, Illinois 60204

(312) 491-5040

**POSITION** Associate Director, Transportation Engineering Division  
1982 -

Responsible for the administration, planning, development and presentation of seminars and workshops in traffic engineering, transportation planning, urban planning, geometric design, traffic operations and planning, bicycle and pedestrian facility planning and design, highway engineering, and accident investigation. These continuing education programs are designed for professional engineering personnel of the city, county, and state transportation and engineering organizations and law enforcement agencies.

**EDUCATION** M.S., Northwestern University, civil engineering, 1970  
B.S., Northwestern University, civil engineering, 1968

**PROFESSIONAL TRAINING** Certificate, Traffic Accident Reconstruction  
The Traffic Institute, Northwestern University, 1981

**PROFESSIONAL EXPERIENCE** The Traffic Institute, Northwestern University

Senior Transportation Engineer, Transportation Engineering Division, 1976 - 1982

Westenhoff and Novick, Inc., Chicago, Illinois

Chief Traffic and Transportation Planning Engineer, 1975 - 1982

Head of department responsible for traffic engineering, transportation planning, and environmental analysis projects. Included feasibility studies, planning and design of public transportation systems, freeway and arterial street systems, parking facilities, and terminal locations. Responsible for preparation of environmental impact studies, contract plans, and specifications for intersection improvements and traffic control systems. Responsible for engineering studies related to site development planning. Lecturer at Illinois Institute of Technology.

PROFESSIONAL Westenhoff and Novick, Inc.

EXPERIENCE

(continued) Assistant Chief Traffic and Transportation Planning Engineer  
1969 - 1975

Assistant to department head responsible for supervision of traffic engineering and transportation planning projects.

CONSULTANT  
SERVICES

Consultation and preparation of expert testimony related to highway traffic accidents. Analysis of roadway design and traffic control features, including geometric design of highways and intersections, traffic signal design and operation, signs and pavement markings, traffic control in construction and maintenance zones, and bicycle and pedestrian facilities design and operation. Traffic accident reconstruction.

Preparation of traffic engineering studies related to roadway improvements and site development.

PROFESSIONAL  
ACTIVITIES

Registered Professional Engineer, State of Illinois, 62-31085

Institute of Transportation Engineers, Member; Chairman of Committee 5B-9, "Urban Intersection Redesign Standards;" President of Illinois Section Institute of Transportation Engineers (1984).

American Society of Civil Engineers, Member

Transportation Research Board, Member of Committee A3C04, "Committee on Traffic Safety in Maintenance and Construction Operations."

PUBLICATIONS

Position and Direction on the Road (co-author), The Traffic Institute, Northwestern University, Stock No. 500, 1981.

Road Hazards, The Traffic Institute, Northwestern University, publication pending.

"Bicycle Facility Design and Legal Liability." Bicycle Forum Magazine, No. 8, 1982.

"Planning for Safe and Efficient Pedestrian Facilities." Metropolitan Association of Urban Planners and Environmental Designers, annual meeting, 1978.

"A challenge to U.S. Traffic Engineers: An Illinois Section Experience." Traffic Engineering Magazine, May 1976.

Reference Manual: Legal Liability and the Highway Professional (co-author). The Traffic Institute, Northwestern University, 1981.

Peak-Hour Traffic Signal Warrant (co-author), National Cooperative Highway Research Program Report 249, Transportation Research Board, 1982.

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 12 day of March, 1991.

Name: B. I. STRIZICH

Address: MT Dept of Highways  
2701 Prospect Helena

Telephone Number: 444-6158

Representing whom?

MT Dept of Highways

Appearing on which proposal?

HB 62

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

Attached



## WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 12<sup>th</sup> day of March, 1991.

Name: Tom Barnard

Address: 2701 Prospect Ave  
Helena

Telephone Number: 444-6206

## Representing whom?

Dept. of Highways

Appearing on which proposal?

HB 87

Do you: Support? ✓ Amend? \_\_\_\_\_ Oppose? \_\_\_\_\_

**Comments:**

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 12 day of MARCH, 1991.

Name: GARY GILMORE

Address: 2701 PROSPECT  
Helena

Telephone Number: 444-6005

Representing whom?

DEPT OF HIGHWAYS

Appearing on which proposal?

HB 82

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

**WITNESS STATEMENT**

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 12 day of MARCH, 1991.

Name: GARY GILMORT

Address: 2701 Prospect

Selma

Telephone Number: 444-6005

## Representing whom?

DEPT OF HIGHWAYS

Appearing on which proposal?

HB 82

Do you: Support? ✓ Amend?        Oppose?       

**Comments:**

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

# WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 12 day of MARCH, 1991.

Name: MARK LANGDOFF

Address: 36 S. Last Chance Gulch  
Helena

Telephone Number: 442 1192

## Representing whom?

AFSCME

Appearing on which proposal?

HB 87

Do you: Support? \_\_\_\_\_ Amend? \_\_\_\_\_ Oppose? /

**Comments:**

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

COMMITTEE ON: HIGHWAYS AND TRANSPORTATION

DATE: 3-12-91

VISITOR'S REGISTER

NAME	REPRESENTING	BILL #	SUPPORT	OPPO
MARK LANGBORN	AFSCME	87		X
Bill STRIZICH	Dept of Highways	62	✓	
Tom Barnard	dept. of Highways	87	✓	
Wayne Burt	Mont + PSC	63	✓	
GARY GILMORE	Mont. Dept. Highways	83	✓	
Jeff Harty	Teamsters Union	87		X
Greta Lewis	Senior Services	588		
Ben Howard	MMCA	83	✓	
Curt Lingen	MMCA	62	✓	
Ken Dunham	MT Contractors' Assor.	83	✓	

(PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY)