

## **MINUTES**

### **MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** By Sen. Bill Yellowtail, Chair, on January 5, 1993, at 10:08 a.m.

#### **ROLL CALL**

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

Sen. Bill Yellowtail, Chair (D)  
Sen. Sue Bartlett (D)  
Sen. Chet Blaylock (D)  
Sen. Bob Brown (R)  
Sen. Bruce Crippen (R)  
Sen. Eve Franklin (D)  
Sen. Lorents Grosfield (R)  
Sen. John Harp (R)  
Sen. David Rye (R)  
Sen. Tom Towe (D)

**Members Excused:** Sen. Halligan, Sen. Doherty

**Members Absent:** None

**Staff Present:** Valencia Lane, Legislative Council  
Rebecca Court, Committee Secretary

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

##### **Committee Business Summary:**

Hearing:	SB 1
	SB 14
	SB 42
Executive Action:	SB 1
	SB 42

#### **HEARING ON SB 1**

##### **Opening Statement by Sponsor:**

Sen. Lynch, Senate District 35, opened on SB 1 and introduced Greg Petesch, Code Commissioner. Commissioner Petesch explained SB 1 is intended to correct minor inconsistencies and inaccuracies in the codes. Of the 85 sections in SB 1, 21 address federal name changes; 11 correct erroneous code references; 6 refer to courts of limited jurisdiction; 4 correct references to womens corrections centers; 4 regard centennial office revisions; 3 regard Department of Commerce; 3 refer to

transfer of fuel tax administration from Department of Revenue to Department of Transportation.

Mr. Petesch pointed out and explained several sections that appear to be substantive. Section 8 increases District Court Small Claims Courts jurisdiction from \$2,500 to \$3,000, to be consistent with Justice Court provisions. Section 10 revises the method of calculating the consumer price index. Consistent with a 1989 bill, Section 24 increases rate of capacity for motor vehicles fleet for light trucks from 3/4 to one ton; light vehicles are all vehicles under one ton. Section 60 deletes the residency requirement for practice of law in Montana, since the U.S. Supreme Court struck down the existing residency requirement. Section 63 deletes closure of certain criminal justice proceedings, in response to court rulings regarding the open meeting law. Section 84 deals with erroneous reference discovered at the time of codification.

**Proponents' Testimony:**

NONE

**Opponents' Testimony:**

NONE

**Questions From Committee Members and Responses:**

Senator Grosfield asked Commissioner Petesch, about section 84. Commission Petesch replied that as bills are being heard they are rendered erroneous by striking Section One of the bill as part of the amendment. For example, a Senator would offer an amendment on the Floor and the amendments coordinator would not notice that reference would be erroneous so we would change reference to pertinent section and report that in a report that's published with annotations code each year.

Senator Towe asked Commissioner Petesch whether the references are to "lower tribunal" instead of "inferior tribunal" and whether that is mandated in the statute." Commissioner Petesch replied that the Commission on Court of Limited Jurisdiction requested that the change be made throughout law in reference to the court. It is used in the Constitution, but throughout most of the Code they are referred to as Courts of Limited Jurisdiction or Lower Courts and that the change is made in four sections at their request.

**Closing by Sponsor:**

Senator Lynch closed on SB 1.

**Opening Statement by Sponsor:**

Senator Swift, District 32, told the Committee that SB 14 would allow youth to hunt under guidance of an adult. He stated that he was willing to change the language on line 20 from "person" to "adult." He explained the aim is to broaden opportunity for youth in Montana to experience hunting and gain proficiency in the use of firearms.

**Proponents' Testimony:**

Pat Graham, Department of Fish, Wildlife, and Parks, stated that the Department supports SB 14 which would allow a child under the age of 14 to use a firearm when accompanied by a person who is authorized to do so. He recommended an amendment to clarify the word of "person" to read "adult."

Stan Bradshaw, Montana Bow Hunters Association, said SB 14 makes the law say what it should have said in the first place. Mr. Bradshaw urged support.

Jan Hamer, Chief Instructor of Montana Bow Hunters Association, stated that passage of SB 14 would enable someone other than a parent to supervise.

**Opponents' Testimony:**

NONE

**Informational Testimony:**

NONE

**Questions From Committee Members and Responses:**

Senator Grosfield asked if bows are included in definitions of firearms, and if bow hunters are authorized without supervision. Jan Hamer said young people still have to be with an adult.

Chairman Yellowtail asked if SB 14 will have an affect on children under 14 years of age carrying a bow. Jan Hamer said it would affect youths carrying a bow.

Senator Crippen asked what constitutes authorization and who interprets who the adult has to be and if it is defined in SB 14. Mr. Graham said that authorization had to be in writing but it was not defined in the bill.

**Closing by Sponsor:**

Senator Swift closed by saying that bows and guns are both classified as firearms. However, if need be, SB 14 can be clarified to read both bows and guns.

**Opening Statement by Sponsor:**

Senator Harp, District 4, stated SB 42 would clarify service provisions for personal injury and property actions against the state.

The state has 40 days after service of summons and complaint to file an answer as it already provided in the Civil Procedures Act. The purpose of this act is to state within the service statutes that the rules provide 40 days to answer the complaint.

Often the plaintiffs believe that the 20 day rule required for private enterprise applies to the state. This bill will eliminate confusion.

**Proponents' Testimony:**

Bill Gianoulis, Chief Defense Council, Risk Management, expressed support for SB 42, and indicated his willingness to answer questions.

**Opponents' Testimony:**

NONE

**Questions From Committee Members and Responses:**

Senator Towe asked Bill Gianoulis if anything else is involved and if there are any other actions elsewhere. Mr. Gianoulis stated that it will not change. There will always be the 40 days to reply.

**Closing by Sponsor:**

Senator Harp closed on SB 42.

**EXECUTIVE ACTION ON SB 1**

**Motion/Vote:** Senator Blaylock moved that SB 1 be recommended DO PASS. Motion CARRIED UNANIMOUSLY.

**EXECUTIVE ACTION ON SB 42**

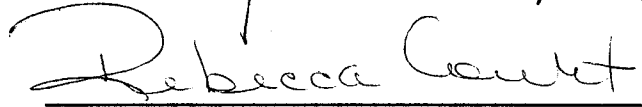
**Motion/Vote:** Senator Brown moved SB 42 DO PASS. Motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 11:00 a.m.



SEN. BILL YELLOWTAIL, Chair



REBECCA COURT, Secretary

BY/rc

# ROLL CALL

SENATE COMMITTEE

Judiciary

DATE 1-5-98

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty			X
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan			X
Senator Harp	X		
Senator Towe	X		
Senator Bartlett	X		
Senator Blaylock	X		
<del>Senator Blaylock</del>			
Senator Rye	X		
Franklin	X		
Lane	X		

F08

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 5, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 1 (first reading copy -- white), respectfully report that Senate Bill No. 1 do pass.

Signed: Wm Yellowtail  
William "Bill" Yellowtail, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 5, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 42 (first reading copy -- white), respectfully report that Senate Bill No. 42 do pass.

Signed: Wm Yellowtail  
William "Bill" Yellowtail, Chair



SB 14  
January 5, 1993

Testimony presented by Pat Graham, Dept. of Fish, Wildlife & Parks  
Before Senate Judiciary Committee

The Department of Fish, Wildlife & Parks supports allowing a child under 14 years of age to use a firearm when accompanied by a person who is authorized to do so by the child's parent or guardian. We would recommend, however, that this bill stipulate that the "person" be an adult.

We think it is vitally important to Montana's hunting heritage that the sport of hunting be passed on to the state's youth. We are actively encouraging sportsmen and sportswomen to consider taking along a boy or girl who would not otherwise have the opportunity to spend a day afield.

The spirit of this bill is in concert with the spirit of that goal. Yet, we believe children just learning to handle firearms and coming to understand the art of hunting need adult mentors who can impart their experience in a mature and meaningful fashion.

We therefore ask that this bill be amended by striking the word "person" in line 20 and replacing it with the word "adult."

SENATE JUDICIARY COMMITTEE  
TESTIMONY NO. \_\_\_\_\_

SENATE JUDICIARY COMMITTEE  
TESTIMONY NO. 1

1-5-92  
14

PROPOSED AMENDMENT TO SB 14  
FIRST READING (WHITE) COPY

1. Title, line 7.  
Following: "ACCOMPANIED BY"  
Strike: "A PERSON"  
Insert: "AN ADULT"
2. Page 1, line 20.  
Following: "other"  
Strike: "person"  
Insert: "adult"

DATE 1-5-72

SENATE COMMITTEE ON Justice

BILLS BEING HEARD TODAY: S.B. 1 - S.B. 14 S.B. 42

Name	Representing	Bill No.	Check One	
			Support	Oppose
Tracy Roloff	Code Commission	SR1	✓	
Dave Lindholm	Dept. Admin.	SB1	✓	
Grettl Dahl	Dept. Admin.	SB42	✓	
Bill Grinnings	Dept. Admin.	SB42	✓	
Stan Broadshaw	MBA	SB 14	✓	
Jan Lamer	MBA	SB14	✓	
Bill Myer	Ag. Res. Assoc.	S.B. 14	✓	
Robert Hoffman	" " "	"	✓	

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY