

## **MINUTES**

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

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** By Senator Steve Doherty, on February 4, 1993, at 10:02 a.m.

#### **ROLL CALL**

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

Sen. Bill Yellowtail, Chair (D)  
Sen. Steve Doherty, Vice 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. Mike Halligan (D)  
Sen. John Harp (R)  
Sen. David Rye (R)  
Sen. Tom Towe (D)

**Members Excused:** Sen. Yellowtail, Sen. Franklin, Sen. Blaylock

**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 179
	SB 193
	SB 194
Executive Action:	SB 179
	SB 193
	SB 194
	SB 153
	SB 229
	SB 238

#### **HEARING ON SB 179**

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

Senator Christiaens, District 18, said SB 179 is an act that

permits private corporations to operate community-based prerelease centers. The prerelease centers would help the overcrowding problems of the prison in Montana. SB 179 would prepare individuals for their release into the community.

**Proponents' Testimony:**

Mickey Gamble, Department of Corrections and Human Services, said SB 179 would be an effective tool for the state of Montana. Mr. Gamble said that SB 179 would help with the overcrowding of Montana State Prison.

**Opponents' Testimony:**

Terry Minow, Montana Federation State Employees, opposes SB 179. Ms. Minow said SB 179 allows privatization of prerelease centers to profit corporations. Ms. Minow represents Billings and Missoula's prerelease center employees. Ms. Minow asks for a DO NOT PASS, as her experience with privatization of prerelease centers is that it is not good for the members, it gives them no obligation to bargain with the union, or to maintain pay. Ms. Minow said the privatization of the prerelease centers may cause the state run centers to close.

**Questions From Committee Members and Responses:**

Senator Rye asked Senator Christiaens why he was sponsoring a collective bargaining bill. Senator Christiaens said SB 179 is not a collective bargaining bill. Employees that work in private prerelease center have the ability to organize if they wish, which has never been a problem. Private prerelease centers would pay competitive wages and the benefit packages are good. Senator Christiaens does not believe that it is contrary to anything that is available to employees now. Even with the passage of SB 179, the state programs would not close. That is an assumption of the opponents.

Senator Rye asked Senator Christiaen's how for profit centers would make money. Senator Christiaens said there is little opportunity to make money because profit organizations would still have to negotiate a contract with the State of Montana and live up to all the conditions of that contract. There is only so much money for salaries and benefits. Profit and non profits organizations would work side by side operating with the same kinds of benefits. Senator Christiaens said there was little, if any profit.

Senator Towe asked Mickey Gamble if there would be a risk that profit companies would not properly care for the residents. Mr. Gamble said that had once been an issue, but no longer was. One of the ways the centers are monitored is by accepting federal inmates. Mr. Gamble said when a center accepts federal inmates they are under very strict audits that address the inmates rights and responsibilities.

Senator Christiaens responded to Senator Towe's question. Senator Christiaens said when a prerelease center accepts both state and federal residents the contracts are specific so if anyone was not getting adequate service the contract would be pulled immediately. The centers are reviewed annually to renew their contract with the state so if a provider was not giving adequate care to the residents the state would not renew the contract.

Senator Bartlett asked Senator Christiaens how well the state would monitor the contracts. Senator Christiaens said if a contractor was violating a contract, it would come to the attention of the department almost overnight. People in charge of community corrections work closely with the centers. There is an annual review of all centers who have contracts currently in Montana. Senator Christiaens said the prerelease center in Great Falls, Montana has always provided a very good service and lives up to every point of the contract. Senator Christiaens said if a contract is revoked, the residents of that program would be reabsorbed within the existing programs on a short term basis. The last thing would be to return the residents to prison, which should not be done.

**Closing by Sponsor:**

Senator Christiaens said SB 179 gives additional opportunities to help address the overcrowding problems of Montana State Prison. Montana State Prison was built to house about 890 people maximum. There are currently over 1100 people in that facility. Many of the inmates could be working in the community, earning wages, paying taxes, supporting children, and paying restitution. That is not done in a secure environment, such as Montana State Prison. Senator Christiaens urges favorable action on SB 179.

**HEARING ON SB 193 AND SB 194**

**Opening Statement by Sponsor:**

Senator Waterman, District 22, told the Committee that SB 193 and SB 194 are companion bills. Senator Waterman said she is presenting the bills on behalf of the Department of Corrections and Human Services. SB 193 authorizes the Department to collect room and board from residents and establishes guidelines for collecting. SB 193 repeals language that limits the Departments ability to collect. The Department believes that flexibility would be in the best interest of the state, so offenders who have the ability to pay more toward their incarceration should. Senator Waterman said specific rates should be addressed through rules, rather than a statute, which gives the department flexibility.

SB 194 authorizes the Department to collect room and board from residents and establish guidelines. The rates for room and board were raised from \$4.25 to \$7.00 a day. There was little

opposition from clients of the prerelease centers. Raising the rates would allow prerelease centers to expand their placements without utilizing more general fund dollars. Raising rates would allow placement for an additional 45 clients without an increase in the general fund. The department feels the room and board increase would allow for additional expansion. Senator Waterman told the Committee that is how SB 193 and SB 194 work together.

**Proponents' Testimony:**

Mike Ferreter, Department of Corrections and Human Services, supports SB 193 and SB 194. Liberalizing the ability to increase resident room and board rates will allow less state revenue towards incarceration of inmates and be in line with the mission of the Department of Correction and Human Services. The goal is to place more responsibility on the offender. Responsibility for the costs of incarceration would be placed on the residents of the prerelease centers by charging for room and board on an elevated level. SB 193 and SB 194 would deal with private nonprofit corporations, private profit corporations, and existing state operating prerelease center. The goal is to decrease the responsibility of payment from the state, and place more responsibility on the offender.

Senator Christiaens, District 18, said the problem people in prerelease centers have, is lack of budgeting skills and learning how to handle money. SB 193 and SB 194 assists people in learning how to handle money in a secure setting. Requiring residents to pay room and board teaches them about living costs when they are out in the community. SB 193 and SB 194 facilitates job training and job placement. Senator Christiaens urges support of SB 193 and SB 194, because they are important to the total rehabilitation efforts of the residents.

**Opponents' Testimony:**

NONE

**Questions From Committee Members and Responses:**

Senator Towe asked Mike Ferreter if prerelease centers were under the Department of Corrections and Human Services bureau. Mr. Ferreter said that was correct.

Senator Towe asked Mr. Ferreter about the rules set by the prerelease centers regarding cost. Mr. Ferreter said there has been cooperation between the community corrections bureaus and the prerelease centers, whether they were private or state operated. The Community Corrections Bureaus and the prerelease centers have always agreed on an amount that would be acceptable to all prerelease centers and clientele. Mr. Ferreter does not feel that rules on charging for the room and boards would affect the bureau and centers working together. With the expansion of the prerelease centers in the private sector, the Department of Corrections and Human Services feels the state has a

responsibility to control what the centers receive, relative to room and board costs.

Senator Towe asked Mr. Ferreter about a portion of SB 193 that deals with 20% of an offenders income. Mr. Ferreter said by collecting only 20% of a persons income it would limit the ability to collect from offenders. There are some offenders that have the ability to pay their entire room and board and service rate. It is in the best interest for some offenders that they pay more and be held more accountable for their rates. The goal of SB 193 and SB 194 is to have offenders pay their entire room and board fee. The 20% would limit that. What is asked for in SB 193 and SB 194, is to work rates with administrative rules, rather than coming to the legislature every two years to address the question about the rates.

Senator Towe asked Mr. Ferreter if the rates for room and board would be addressed on an individual basis. Mr. Ferreter said they would. The State of Montana has a vested interest in the prerelease centers. If there is an undue burden placed on an inmate at a prerelease center, relative to room and board, that inmate would need protection. Mr. Ferreter said if the Department of Corrections and Human Services has the ability to control what is happening with the private and state centers, it would better control those types of situations.

Senator Towe asked Mr. Ferreter about the payment of family support and the payment of court orders. Mr. Ferreter said payments toward restitution and family support would be considered. Community corrections places people in the position to be responsible to their families and their victims. When prerelease center directors access room and board rates, they look at restitution and family support payments. The directors would charge lower rates if the offender was making an attempt to support family or the victim. As community corrections expand, people who are not on inmate status in prerelease community based facilities could pay towards the restitution of a victim.

Senator Towe asked Mr. Ferreter if halfway houses insist on paying restitution, would the person have to pay. Mr. Ferreter said the offender would have to pay. The Department of Corrections and Human Services encourages payment of restitution. Mr. Ferreter said many centers require inmates to make an attempt to pay restitution to remind the victim the defendant is aware of his crime.

Senator Crippen asked Mr. Ferreter if the centers encourage inmates to reach goals. Mr. Ferreter said the goal of prerelease centers is to establish a solid parole plan, so when the board of pardons comes to the prerelease center, the inmate and the center would have something to offer the individual. If the centers charge people a high rate for room and board to an extent in which they could not establish anything else, it would affect the

rehabilitation and growth of that individual in order to get out on their own. When an individual is ready for parole, the board of pardons likes to see that an individual has approximately \$400 in their savings account and an apartment ready to be rented. The Department of Corrections and Human Services is aware if it overcharges to the extent that a person cannot meet those goals, then it would be inhibiting the ability to move that person through the system at a reasonable rate of time. The amount of room and board that is charged is reasonable. Our goal is to increase room and board to \$13.00 a day, unless an individual has the means to pay for the entire package of what it would cost to stay at the center.

Senator Towe told the Committee about the Alpha House in Billings. The individual's check is brought to the bookkeeper of the house. The bookkeeper decides how much money the individual can spend, and how much of the money would go to certain places according to the budget that was worked out. The individuals need this type of budgeting because they have no idea how to budget funds themselves. If one of these individuals runs short of money, that is when they get into trouble again. Because of the budgeting, after a few months, the individuals are better prepared to take care of themselves after they are released. This budgeting is important and critical to the success of halfway houses. Senator Towe feels it is necessary that each case be looked at on an individual basis.

Mr. Ferreter thanked Senator Towe for his comment. Mr. Ferreter said budgeting is one of the key components of prerelease centers. The Department of Corrections and Human Services hopes the ability to budget money would carry on to their own home. Mr. Ferreter said that each resident is assigned to a counselor. The expectation of those counselors, is to be an advocate for that individual. The counselors would ensure that the individuals financial obligations are being met, and that the center is not taking advantage by overcharging for room or board. Mr. Ferreter said that the fact there are no prerelease center directors opposing SB 193 and SB 194 is an indicator that there is a good working relationship with all the facilities. The Department has not over or under controlled the prerelease center. Mr. Ferreter said most people would say that prerelease centers have been a real bright spot in Montanas corrections system.

Senator Towe asked Mr. Ferreter how the money would be assessed. Mr. Ferreter said the Department of Corrections and Human Services would assess the vendors rate on a monthly basis with the residents ability to pay.

Senator Towe asked Mr. Ferreter about the cost per day of prerelease centers. Mr. Ferreter said there is a set cost per day, which is \$31.78. It costs about \$39.00 per day to operate a prerelease center. The state pays \$31.78 for each individual at the centers, and the center collects \$7.00 from each individual

to meet their budget obligations. The Department of Corrections and Human Services does have the ability to review their books.

**Closing by Sponsor:**

Senator Waterman said SB 193 and SB 194 have advantages for the state, the inmates, and the legislature. It is critical for inmates to learn to be responsible and to have an accurate understanding of the cost of room and board. SB 193 and SB 194 would help develop plans so the individuals would meet those goals. The inmates have an obligation to their victims for restitution and to their families for support. SB 193 and SB 194 allow for that flexibility, and for the rehabilitation of the inmates to facilitate their movement back into society. The inmates would be paying the cost for the expansion of the community correction facilities without additional dollars from the general fund.

**EXECUTIVE ACTION ON SB 193**

**Motion/Vote:**

Senator Halligan moved SB 193 DO PASS. The motion CARRIED UNANIMOUSLY.

**EXECUTIVE ACTION ON SB 194**

**Motion/Vote:**

Senator Halligan moved SB 194 DO PASS. The motion CARRIED UNANIMOUSLY.

**EXECUTIVE ACTION ON SB 179**

**Motion:**

Senator Grosfield moved SB 179 DO PASS.

**Discussion:**

Senator Halligan told the committee that most individuals who are in prerelease centers can only obtain minimum wage jobs. That would create problems, as most minimum wage jobs do not carry health care. Senator Halligan said those individuals would not be paid as well as we would like them to be, and they would have no insurance. Senator Halligan said he would be voting against the bill.

Senator Towe said he is familiar with halfway houses. Senator Towe does not see a problem with SB 179. Private organizations do a good job and should have extra flexibility.

**Vote:**

Motion tied. Senators Bartlett, Halligan, Doherty, Franklin, Yellowtail, Blaylock voting NO. Senators Harp, Brown, Grosfield, Towe, Rye, Crippen voting YES.

**EXECUTIVE ACTION ON SB 229**

**Discussion:**

Valencia Lane told the Committee Senator Towe and Senator Yellowtail requested the amendments. Valencia Lane explained the amendments (Exhibit #1)

**Motion/Vote:**

Senator Towe moved to AMEND SB 229. Motion to amend SB 229 CARRIED UNANIMOUSLY.

**Motion:**

Senator Towe moved SB 229 DO PASS AS AMENDED.

**Discussion:**

Senator Grosfield asked Valencia Lane about the amendment proposed by Senator Stang. Valencia Lane said Senator Stang's amendment was incorporated into the new amendments.

**Vote:**

Motion carried to AMEND SB 229. Senator Crippen voting NO.

**EXECUTIVE ACTION ON SB 238**

**Discussion:**

Senator Crippen explained the amendment. (Exhibit #2)

**Motion/Vote:**

Senator Crippen moved to amend SB 238. CARRIED UNANIMOUSLY.

**Motion/Vote:**

Senator Crippen moved SB 238 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

**EXECUTIVE ACTION ON SB 153**



**Discussion:**

Senator Doherty said Senator Towe and Senator Grosfield met with Peter Funk from the Attorney General's office about the question concerning who is driving the car, and whose plates would get lifted.

**Discussion:**

Senator Doherty said the first set of amendments was already adopted. (Exhibit #3)

**Motion:**

Senator Towe moved to AMEND SB 153. (Exhibit #4)

**Discussion:**

Peter Funk explained amendments sb015304.avl.

Senator Halligan asked Peter Funk about joint ownership. Mr. Funk said with the language in amendment sb015304.avl, if a joint owner was driving without insurance, it would result in a license plate cancellation.

Senator Halligan asked Peter Funk if it would affect the driver registration of other joint owned cars. Mr. Funk said it would not affect other registrations, it would affect only the vehicle driven at the time of the offense.

Senator Towe asked Mr. Funk when the plates would be picked up. Mr. Funk said after the second offense.

Senator Towe asked Mr. Funk if a person would be able to register a car if their spouse had committed the offense of driving without insurance. Mr. Funk said the spouse would be able to register a car, only if it was registered in their name.

Senator Towe asked Mr. Funk if there was a problem with immediate family. Mr. Funk said the definition could be inserted if necessary, however the courts would probably interpret immediate family as spouses and children.

Senator Halligan asked Mr. Funk about forfeiture. Mr. Funk said certain statutes include an innocent owner exception. Mr. Funk told the Committee an innocent owner exception is when someone is not aware of a criminal act that is happening with the property. Mr. Funk said if an innocent owner exception is created within an immediate family, people would begin to borrow cars. SB 153 is trying to curb the use of people driving without insurance.

Senator Bartlett told the Committee she likes the provision concerning the forfeiture, because it comes on the second

offense. Senator Bartlett said there would have been a first offense, so members of an immediate family would be aware there was no insurance on the vehicle.

Senator Crippen said noncancellable insurance should be required before licenses are received.

Senator Towe said noncancellable insurance was considered, and insurance rates would rise five or six times the amount they are currently charging. If insurance companies can not cancel insurance, they charge higher rates.

**Vote:**

Motion carried to amend SB 153 CARRIED UNANIMOUSLY.

**Motion:**

Senator Towe moved amend SB 153. (Exhibit #5)

**Discussion:**

Senator Towe explained the amendments sb015303.avl.

Senator Doherty said he resists amendment sb015303.avl. Senator Doherty discussed with the law enforcement community about seizing vehicles upon a court order. Law enforcement was not interested. Senator Doherty also stated that vehicles are significant assets for people in low income brackets. Senator Doherty said he understands the problem which is being addressed, but seizing the vehicles not the answer.

Senator Towe said this amendment is a policy measure. Senator Towe said he had some concerns about the seizure of the automobiles, but that it would draw attention to the problem of driving without insurance. Taking away license plates may not solve the problem, because vehicles would still be driven, by borrowing or stealing license plates. Senator Towe said seizure of a vehicle would happen after the third offense. Senator Towe said the Committee should be tough and do something about this problem.

**Vote:**

Motion to amend SB 153 failed. Senator Rye, Senator Towe voting YES.

**Motion:**

Senator Grosfield moved amendments one, two, and three. (Exhibit #6)

**Discussion:**

Senator Grosfield explained the amendments sb015301.avl.

Senator Towe said he checked with a judge concerning jail time. Senator Towe said the judge sends people to jail on the first offense, and the courts are getting tough on people who are driving without insurance. Senator Towe does not think raising the jail sentence would be a good idea. Senator Towe said the penalty for the third offense could be raised, but not for the first and second offense.

Senator Halligan told the Committee he would like to divide the question. Senator Halligan would like to vote on amendment one and two first, then number three which is increasing the third offense.

Senator Grosfield asked Senator Towe what circumstances the courts use jail sentences for the first offense. Senator Towe did not know the circumstances in which a judge would use a jail sentence, but said the judge he questioned uses jail sentences because it is the only thing that gets an offender's attention. Senator Towe said that maybe it is because the offenders have been to court before for not procuring their insurance at the time of the offense.

**Motion:**

Senator Grosfield withdrew amendment one and two.

**Discussion:**

Senator Doherty explained the amendment. Amendment number three increases jail time for the third offense from 10 days to 30 days.

**Vote:**


The motion to amend SB 153 CARRIED UNANIMOUSLY.

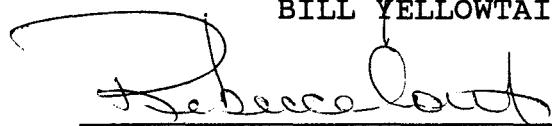
**Motion/Vote:**

Senator Halligan moved SB 153 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 11:18 a.m.

  
\_\_\_\_\_  
BILL YELLOWTAIL, Chair

  
\_\_\_\_\_  
REBECCA COURT, Secretary

BY/rc

# ROLL CALL

SENATE COMMITTEE

Judiciary

DATE

2-4-93

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 Franklin			X
Senator Blaylock			X
Senator Rye	X		

F08

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 5, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 153 (first reading copy -- white), respectfully report that Senate Bill No. 153 be amended as follows and as so amended do pass.

Signed: Wm Yellowtail  
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Page 10, line 14.

Strike: "\$250"

Insert: "\$500"

2. Page 10, line 16.

Strike: "\$350"

Insert: "\$750"

3. Page 10, line 19.

Strike: "\$500"

Insert: "\$1,000"

4. Page 10, line 20.

Strike: "10"

Insert: "30"

5. Page 10, line 23.

Strike: "registration certificate,"

Following: "receipt"

Strike: ","

6. Page 10, line 25 through page 11, line 2.

Following: line 24 on page 10

Strike: line 25, page 10 through "registered" on line 2, page 11

Insert: "if that vehicle was operated by the registered owner or  
a member of the registered owner's immediate family"

7. Page 11, line 3.

Page 11, line 5.

Page 11, line 8.

Strike: "certificate,"

Following: "receipt"

Strike: ","

8. Page 11, lines 12 through 15.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

-END-

AM Amd. Coord.  
Sec. of Senate

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 4, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 193 (first reading copy -- white), respectfully report that Senate Bill No. 193 do pass.

Signed: Steve D. Mott  
Senator William "Bill" Yellowtail, Chair

ADK  
Amd. Coord.  
Sec. of Senate

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 4, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 194 (first reading copy -- white), respectfully report that Senate Bill No. 194 do pass.

Signed: Steve Ocheltre  
Senator William "Bill" Yellowtail, Chair



SENATE STANDING COMMITTEE REPORT

Page 1 of 2  
February 4, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 229 (first reading copy -- white), respectfully report that Senate Bill No. 229 be amended as follows and as so amended do pass.

Signed: Steve Ocheltree  
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Title, line 7.

Strike: "SECTION 23-5-310,"

Insert: "SECTIONS 23-5-308 AND 23-5-309,".

2. Pages 1 and 2.

Strike: everything following the enacting clause

Insert: "NEW SECTION. Section 1. Poker run defined --

authorization -- conditions. (1) For the purposes of this section, "poker run" means a gambling activity involving a live poker card game conducted in the following manner:

(a) Each person pays valuable consideration to participate.

(b) A participant travels to designated locations and obtains a playing card at each location. Cards accumulated by the participant constitute a poker hand.

(c) After each participant has accumulated the required number of cards, the participants' poker hands are ranked as described in the poker run rules to determine the winner.

(2) It is lawful to conduct or participate in a poker run subject to the following conditions:

(a) Each participant must receive a copy of the rules for conducting the poker run before the poker run begins. The rules must include:

(i) the amount of the entry fee;

(ii) the type of poker game being played and ranking of poker hands;

(iii) the value of the prizes to be awarded;

(iv) a description of the locations where playing cards may be obtained; and

(v) the date and time during which the poker run will be conducted.

(b) The rules may provide for more than one winner of the ranked hands, with each winner receiving a prize, but a prize may not exceed \$300 in value.

(c) Except as provided in subsection (2)(d), all consideration paid to participate in a poker run must be expended on the prize or prizes.

END  
BY Amd. Coord.  
Sec. of Senate

281218SC.San

(d) If a poker run is conducted by a nonprofit organization, as defined in 23-5-112, the organization may retain a portion of the total amount paid to participate.

Section 2. Section 23-5-308, MCA, is amended to read:

"23-5-308. Card game dealers -- license. (1) Except as provided in [section 1], a person may not deal cards in a live card game of panguingue or poker without being licensed annually by the department.

(2) The fee for the first year in which the license is effective is \$75, and the annual renewal fee is \$25. The fee may not be prorated.

(3) The department shall retain for administrative purposes the license fee charged for the issuance of a dealer's license.

(4) A licensed dealer shall have on his person, and display upon request, his dealer's license when he is working as a dealer.

(5) (a) The department shall adopt rules to implement temporary licensing procedures until a permanent license is issued to a dealer.

(b) The rules must provide that:

(i) a temporary license may be obtained at the place where a person locally applies for a driver's license; and

(ii) the receipt received upon mailing by certified mail a completed license application and the fee required under subsection (2), return receipt requested, constitutes a temporary license.

(c) The department may not assess a fee for the temporary license."

Section 3. Section 23-5-309, MCA, is amended to read:

"23-5-309. Requirements for conducting card games. (1) Except as provided in 23-5-317 and [section 1], a live card game must be played on a live card game table for which a permit has been issued and on the premises of a licensed operator.

(2) Except as provided in [section 1], a live card game of panguingue or poker must be played in the presence and under the control of a licensed dealer."

NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 23, chapter 5, part 3, and the provisions of Title 23, chapter 5, part 3, apply to [section 1].

NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval."

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 4, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 238 (first reading copy -- white), respectfully report that Senate Bill No. 238 be amended as follows and as so amended do pass.

Signed:   
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Page 1, line 18.

Following: "days"

Insert: "unless demanded by a peace officer"

Following: "and"

Insert: ", upon demand,"

-END-

Amendments to Senate Bill No. 229  
First Reading Copy

Requested by Senator Yellowtail and Towne  
For the Committee on Judiciary

Prepared by Valencia Lane  
January 29, 1993

SENATE JUDICIARY  
EXHIBIT NO. 1  
DATE 2-4-93  
FILE NO. SB229

1. Title, line 7.

Strike: "SECTION 23-5-310,"

Insert: "SECTIONS 23-5-308 AND 23-5-309,".

2. Pages 1 and 2.

Strike: everything following the enacting clause

Insert: "NEW SECTION. Section 1. Poker run defined --

authorization -- conditions. (1) For the purposes of this section, "poker run" means a gambling activity involving a live poker card game conducted in the following manner:

(a) Each person pays valuable consideration to participate.

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(a) Each participant must receive a copy of the rules for conducting the poker run before the poker run begins. The rules must include:

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(ii) the type of poker game being played and ranking of poker hands;

(iii) the value of the prizes to be awarded;

(iv) a description of the locations where playing cards may be obtained; and

(v) the date and time during which the poker run will be conducted.

(b) The rules may provide for more than one winner of the ranked hands, with each winner receiving a prize, but a prize may not exceed \$300 in value.

(c) Except as provided in subsection (2)(d), all consideration paid to participate in a poker run must be expended on the prize or prizes.

(d) If a poker run is conducted by a nonprofit organization, as defined in 23-5-112, the organization may retain a portion of the total amount paid to participate.

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effective is \$75, and the annual renewal fee is \$25. The fee may not be prorated.

(3) The department shall retain for administrative purposes the license fee charged for the issuance of a dealer's license.

(4) A licensed dealer shall have on his person, and display upon request, his dealer's license when he is working as a dealer.

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(i) a temporary license may be obtained at the place where a person locally applies for a driver's license; and

(ii) the receipt received upon mailing by certified mail a completed license application and the fee required under subsection (2), return receipt requested, constitutes a temporary license.

(c) The department may not assess a fee for the temporary license."

{ Internal References to 23-5-308:

x23-5-310                      x23-5-317 }

Section 3. Section 23-5-309, MCA, is amended to read:

"23-5-309. Requirements for conducting card games. (1)

Except as provided in 23-5-317 and [section 1], a live card game must be played on a live card game table for which a permit has been issued and on the premises of a licensed operator.

(2) A Except as provided in [section 1], a live card game of panguingue or poker must be played in the presence and under the control of a licensed dealer."

{ Internal References to 23-5-309:

x23-5-310 }

NEW SECTION. Section 4. {standard} Codification

instruction. [Section 1] is intended to be codified as an integral part of Title 23, chapter 5, part 3, and the provisions of Title 23, chapter 5, part 3, apply to [section 1].

NEW SECTION. Section 5. Effective date. [This act] is

effective on passage and approval."

Amendments to Senate Bill No. 238  
First Reading Copy

Requested by Senator Towe and Grosfield  
For the Committee on Judiciary

Prepared by Valencia Lane  
February 1, 1993

1. Page 1, line 18.  
Following: "days"  
Insert: "unless demanded by a peace officer"  
Following: "and"  
Insert: ", upon demand,"

SENATE JUDICIARY  
EXHIBIT NO. 2  
DATE 2-4-93  
FILE NO. SB238

Senate BILL NO. 238

INTRODUCED BY

Clyde

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING CERTAIN WARRANT AND BOND REQUIREMENTS FOR OBTAINING POSSIBLE STOLEN PROPERTY FROM A PAWNBROKER OR DEALER; AMENDING SECTION 46-5-212, MCA; AND REPEALING SECTIONS 31-1-403, 31-1-404, 31-1-405, AND 31-1-406, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-5-212, MCA, is amended to read:

"46-5-212. Pawnbroker to surrender stolen property.

When a peace officer informs a pawnbroker or dealer who buys and sells secondhand merchandise that property pawned to him or purchased by him the pawnbroker or dealer is stolen property, as defined in 45-2-101, the pawnbroker or dealer who buys and sells secondhand merchandise shall hold the property for 30 days and shall surrender the property to the peace officer upon service of a search warrant by a peace officer pursuant to 31-1-401 through 31-1-406. The peace officer shall give the pawnbroker or dealer a receipt for any property surrendered by the pawnbroker or dealer."

NEW SECTION. Section 2. Repealer. Sections 31-1-403,

31-1-404, 31-1-405, and 31-1-406, MCA, are repealed.

-End-

Amendments to Senate Bill No. 153  
First Reading Copy

For the Committee on Judiciary

Prepared by Valencia Lane  
January 28, 1993

Already  
adopted

1. Page 10, line 14.  
Strike: "\$250"  
Insert: "\$500"

2. Page 10, line 16.  
Strike: "\$350"  
Insert: "\$750"

3. Page 10, line 19.  
Strike: "\$500"  
Insert: "\$1,000"

SENATE JUDICIARY  
COMMITTEE NO. 3  
DATE 2-4-93  
SB 153



Amendments to Senate Bill No. 153  
First Reading Copy

Requested by Senator Towe  
For the Committee on Judiciary

Prepared by Valencia Lane (and Peter Funk/Dept. of Justice)  
January 29, 1993

1. Page 10, line 23.

Strike: "registration certificate."

Following: "receipt"

Strike: "L"

2. Page 10, line 25 through page 11, line 2.

Following: line 24 on page 10

Strike: line 25, page 10 through "registered" on line 2, page 11

Insert: "if that vehicle was operated by the registered owner or  
a member of the registered owner's immediate family"

3. Page 11, line 3.

Page 11, line 5.

Page 11, line 8.

Strike: "certificate."

Following: "receipt"

Strike: "L"

4. Page 11, lines 12 through 15.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

SENATE JUDICIARY  
AMEND NO. 4  
DATE 2-4-93  
FILE NO. SB153

Amendments to Senate Bill No. 153  
First Reading Copy

SENATE JUDICIARY

EXHIBIT NO. 5

Requested by Senator Towe  
For the Committee on Judiciary

DATE 2-4-93

FILE SB153

Prepared by Valencia Lane  
January 28, 1993

1. Title, line 12.

Following: "INSURANCE;"

Insert: "ALLOWING FORFEITURE OF A MOTOR VEHICLE UPON A THIRD  
CONVICTION;"

2. Page 11, line 16.

Following: line 15

Insert: "(5) Upon a third or subsequent conviction, the  
sentencing judge may, as provided in [sections 8 and 9],  
order forfeiture of the vehicle that was operated by the  
convicted person at the time of the offense that resulted in  
the third or subsequent conviction."

Renumber: subsequent subsections

3. Page 14, line 17.

Following: line 16

Insert: "NEW SECTION. Section 8. Forfeiture of motor vehicle --  
notice -- sale -- relief. (1) If a forfeiture is ordered by  
the sentencing court under 61-6-304(5), the prosecuting  
attorney shall conduct a search to determine the existence  
of any additional registered owner or of any person holding  
a security interest in the vehicle. If a secured party is  
found, the prosecuting attorney shall serve notice of the  
court forfeiture order on the secured party by certified  
mail. Not less than 10 days after the mailing of the notice,  
the prosecuting attorney shall sell the vehicle in a  
commercially reasonable manner.

(2) A person receiving a notice under subsection (1)  
may petition the sentencing court for relief, including  
receipt of the vehicle based on the exemptions in subsection  
(3). If the value of the vehicle exceeds the jurisdictional  
amount of the sentencing court, the prosecuting attorney  
shall refer the matter to a district court that has  
authority to order forfeiture as provided in 61-6-304(5).

(3) (a) A motor vehicle is not subject to forfeiture  
under this section because of any act or omission  
established by the owner of the motor vehicle to have been  
committed or omitted without the owner's knowledge or  
consent.

(b) A motor vehicle is not subject to forfeiture under  
this section if the vehicle is owned by a nonresident, if it  
is currently registered in the owner's resident  
jurisdiction, and if the owner is in compliance with the  
motor vehicle liability insurance requirements, if any, of  
that jurisdiction.

(4) A forfeiture of a motor vehicle encumbered by a security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to any violation of 61-6-304(1).

NEW SECTION. Section 9. Forfeiture of vehicle -- disposition of proceeds of sale. (1) Whenever a motor vehicle is forfeited and sold under the provisions of 61-6-304 and [section 8], the net proceeds of the sale must be distributed as follows:

(a) to the holders of security interests who have presented proper proof of their claims, if any, up to the amount of their interests in the motor vehicle;

(b) except as provided in subsection (1)(e), the remainder, if any, to the county treasurer of the county in which the motor vehicle was seized, who shall establish and maintain a motor vehicle forfeiture account and deposit the remainder into the account;

(c) except as provided in subsection (1)(e), if the motor vehicle was seized within the corporate limits of a city or town by a law enforcement agency of that city or town, the remainder, if any, to the city or town treasurer, who shall establish and maintain a motor vehicle forfeiture account and deposit the remainder into the account;

(d) except as provided in subsection (1)(e), if the motor vehicle was seized by an employee of the state, the remainder, if any, to an account in the state special revenue fund to the credit of the department; and

(e) if the motor vehicle was seized as a result of the efforts of more than one law enforcement agency, the remainder, if any, to the accounts required by this subsection (1), pro rata in the proportions represented by the agencies' expenses of investigation.

(2) The money received under subsection (1) must in each fiscal year be appropriated to and may be expended by each receiving agency for purposes of law enforcement."

NEW SECTION. Section 10. {standard} Codification instruction. [Sections 8 and 9] are intended to be codified as an integral part of Title 61, chapter 6, part 3, and the provisions of Title 61, chapter 6, part 3, apply to [sections 8 and 9].

Amendments to Senate Bill No. 153  
First Reading Copy (white)

Requested by Senator Grosfield  
For the Committee on Judiciary

Prepared by Valencia Lane  
January 19, 1993

SENATE JUDICIARY

EXHIBIT NO. 6

DATE 2-4-93

BILL NO. SB153

1. Page 10, lines 14 through 16.

Following: "~~\$500~~" on line 14

Strike: remainder of line 14 through "both" on line 16

2. Page 10, lines 17 and 18.

Following: "\$350" on line 16

Strike: line 17 through "both" on line 18

3. Page 10, line 20.

Strike: "10"

Insert: "30"

4. Page 10, line 25 through page 11, line 2.

Following: "offender" on page 10, line 25

Strike: remainder of line 25 through "registered" on page 11,  
line 2

5. Page 11, line 13.

Following: "offender"

Insert: ", if the offender is the owner of the vehicle involved  
in the second or subsequent violation or if the offender was  
in the vehicle involved in the second or subsequent  
violation at the time of the offense,"

DATE 2-4-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: S.B. 179 (Christians) S.B. 193 (Waterman)  
S.B. 194 (Waterman)

Name	Representing	Bill No.	Check One	
			Support	Oppose
Mickey Lambie	DC HS	193, 194 179	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mike Ferriter	DC HS	193-194 179	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY