

## **MINUTES**

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

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** By Senator Yellowtail, on December 9, 1993, at 8:15 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:** None

**Members Absent:** None

**Staff Present:** Valencia Lane, Legislative Council  
Shari Briggeman, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 24  
Executive Action: None

#### **HEARING ON SENATE BILL 24**

**Opening Statement by Sponsor:** Senator Stang, Senate District 24 said this bill would raise the \$5.00 fuel conservation speeding fine to \$10.00, and for speeds over 75 miles an hour, \$3.00 for each mile an hour over that. In light of the budget constraints that we were having it is ridiculous that Montana should have such a low fine. It is costing the state more to write the tickets than the fine and has hurt the morale of the officers of the Highway Patrol. Senator Stang has been approached many times by local highway patrol officers and thanked for sponsoring the

bill. The last time the bill was sponsored, it was kind of coincidental that while this bill being considered, a Highway Patrolman happened to pick up a journalist from New York City. After this bill was killed in the Montana House, there were articles appearing in major newspapers across the country about how much fun it must be to drive in Montana, that we shouldn't be called the "Big Sky State", but should be called the "Hot Rod State". Our \$5.00 ticket is getting national attention and we should take a serious look at raising this fine. We are taking eye glasses and hearing aids away from people in cutting budgets, but do not want to inconvenience speeding motorists. This bill will enable the Highway Patrol to gain some of their morale back and to shore up the budget and since part of this money goes to the local governments, it will help them." Senator Stang asked Attorney General Mazurek to explain the bill and offered to answer any questions.

**Proponents' Testimony:** Attorney General Joseph Mazurek thanked Senator Stang for agreeing to carry this bill and the Highway Patrol officers who came hoping to share some of their experiences in dealing with the \$5.00 fine that they have an obligation to enforce. The significant part that motivates the introduction of the bill is the extent to which the Highway Patrol officers relate stories that they have to deal with on the roads every day here in Montana. It is a deadly serious job and a number of them have been involved in shooting incidents on our highways as they enforce this and other laws. At least two officers have been shot in the line of duty in recent years. Those incidents will continue and unfortunately they also have the responsibility of picking up the pieces when drivers, going in excessive speeds, are involved in serious accidents. It seems unfortunate that our nickel ticket, as people commonly refer to it, has become the joke that it has. Excessive speed was noted as the cause of over one third of the fatal accidents where drivers didn't have their seat belts fastened last year. A higher percentage from those who had been drinking and driving was an additional factor. Where drinking is involved, speed is also involved as a factor in 44 percent of those situations. For every 10 miles an hour a driver is traveling over 50 miles an hour, the chances of death or serious injury doubles. If you're traveling at 80 miles an hour, the chances of death or serious injury are four times higher than if you are driving 60. When the \$5.00 ticket was enacted in 1974, it really was a joke, it was our joke, our way of thumbing our nose at the federal government. It was an environmental violation, but giving what's going on nationally, the \$5.00 fine or lack of a fine, the joke is turned and it's now a joke on us. It's not only detrimental to highway safety, it erodes respect for law enforcement officers at a time when crime is going up. We ought to ask ourselves, why is the disrespect for law so rampant. Is it because with our young drivers, the first thing they learn is we have a speed limit here, but you don't have to pay any attention to it. It's only a \$5.00 fine, you can drive as fast as you want. A \$5.00 fine covers roughly a third of the cost of writing the ticket and

sends a strong message that it's okay to break the law, there's no penalty for doing so. Most Montanans do drive within, or relatively close to, the speed limit this bill continues to try to recognize that. It still gives a 10 mile an hour cushion so that those people who stay within 10 miles an hour of the speed limit will only face a \$10.00 fine, but if you get above that and increase the risk not only to yourself but to others on the road, that you ought to pay a significantly higher fine to deter people from driving in excessive speeds.

Colonel Robert Griffith, Chief of the Montana Highway Patrol spoke in favor of SB 24. He said in the past 20 years, since the conservation speed limit has been in effect, every session has had a member of the Legislature bring forth legislation either on behalf of the Department of Justice or their own initiative, to adjust the \$5.00 conservation speed limit. The enforcement of the speed limit is a frustration for the officers, it's like listening to a piano that's out of tune. In the 20 years that have passed, there has been all kinds of variations of legislation introduced trying to get the piano tuned. He urged favorable consideration of SB 24 and said he would be available to answer any questions.

Officer John Stewart, MHP (Montana Highway Patrol), Butte, stated he's been a proud member of the Highway Patrol for over 20 years and officers have to have a love for the job to be out there. There are a lot of adversaries, but they feel they are doing some good for the state of Montana. In earlier years MHP were considered Montana's finest but over the last 20 years word has spread around that the officers are Montana's highway clowns. This has happened because of our attempting to enforce the 55/65 speed limit. The penalty does not fit the crime and when someone is stopped, comments are received as to why the officers are wasting their time and taxpayers money. In other states it is \$55.00 or \$60.00 for the same speed. Officer Stewart said if there is a higher penalty involved, speeds would be reduced and the officers would be better able to assist the motoring public and reduce the injury and fatality rate and that is the prime concern of the officers.

Officer Mary Pat Murphy, MHP, Great Falls, said the \$5.00 ticket is being brought up in jest in national and local publications. Part of an officers occupation involves speaking to the public and going out and doing safety presentations. Often with newcomers to the area such as business people, military, new drivers from high school drivers education and foreign students, an officer goes through the laws that are enforced to give the reasons that the laws are in effect as well as the penalties for violations. Officers are not able to convince people that it is against the law to violate the daytime speed limit. It is frustrating trying to enforce a law that people won't take seriously because of its' penalty. In several conversations with motorists, the officers observe a large accumulation of \$5.00 speeding fines and receive comments that

probably more will be added to the prior tickets, that not much attention will be paid to the speed until the fine is more. Officer Murphy shared narratives with the committee with respect to motorist remarks and anxiousness to just get the ticket and be on their way. Most fatality and serious injury accidents are because no seat belts are used and or DUI and they are usually high speed accidents. The state has a penalty that most people pay attention to for DUI and seat belt violations. Why can't the state have a day time speed limit penalty that people are going to take seriously because \$5.00 is not a deterrent, and it also discredits the law.

Ed Hall, Executive Director of the Board of Crime Control said the committee has set a norm, a standard of dignity and respect, and a judicious approach to issues which is an important feature. That same kind of image is what is needed for this bill as well. The mission of the Board of Crime Control is to improve the justice system. The bill has a broader implication for social responsibility in general which goes beyond the calculations of fines and the cost of doing business. As a nation, we are clearly within a grip of the fear of crime. The issue is not the numbers, but the perception of crime and the fear of crime and the perception for most is the reality. There is a sense of false pride that this is the way we do business in Montana. The Board of Crime Control, even before the current Congress and President emphasized it, was aware that prevention is the best tool we have in our arsenal for against crime. Prevention is based on establishing strong morals and when a law is broken and it's considered to be a joke it does nothing to reinforce our behavior and social fabric that we fear when we are in terror. Young drivers or young children riding with adult drivers observing the breaking of the law does nothing for us in developing that sense of social responsibility. Clearly the bill won't resolve the fear of crime, but it does start to say that expectations of behavior in our society is not a joking matter. It doesn't mock the Highway Patrol officers, it says we value law and justice even if in a very small and very dignified way. That's the importance of the bill, and he urged support the bill.

Albert Goke, Administrator of the Highway Traffic Safety Division spoke in favor of the bill. He said in 1973, we had some 48% of vehicles driving on the roads exceed 65 miles an hour and within one year following the passage of the law in 1974, we were down to 15% exceeding and by 1978, we were down to about 8% exceeding 65 miles an hour. The point is, citizens have the desire to look to the government for guidance in many issues, and the vast majority will respond to that. He gave statistics on seat belts and 55 mph road accidents and pointed out that the majority of people would respond to a law. The new compliance to federal regulations is changing. We may well be approaching a compliance problem and raising the fine is a very reasonable first effort to relate to our public to be law abiding.

Randi Hood, representing John Connor on behalf of the Montana

County Attorneys Association was not available to testify, and wanted to let the committee know that the county attorneys association strongly support this bill.

Beverly Gibson, MACO (Montana Association of Counties) stated they are pleased to support the Department in their request for a higher violation of the fuel conservation speed limit. MACO has always been supportive of a meaningful fine for speed limit violation as being in the best interest of government to recoup their cost in administering the law and in issuing tickets. In addition, because the speed limit has been a national concern for fuel conservation, we support the concept that energy conservation should be pursued at every level, on the highways and in county and school buildings where we participate in programs to monitor energy costs. We urge your support of the bill.

**Opponents' Testimony:** Bill Bahny, a real estate broker testified in opposition to the bill. Mr. Bahny stated that he drives the highways and interstates Monday through Friday in daylight hours. On occasion, it can take as long as seven hours to drive to his furthest listing in Broadus, Montana. The vast majority of the drivers on the highways Monday through Friday are businessmen and traveling salesmen. Their living is made by talking with as many people as possible in a day, and you cannot do that if driving within the speed limits because the towns are too far apart in Montana. He believed the fine should be dropped completely and the speed limit raised.

**Questions From Committee Members and Responses:** Senator Crippen asked Colonel Griffith if, because of highway improvements and better automobiles, doesn't it appear we are in better shape to drive faster speeds. Colonel Griffith said when the state did not have a day time speed limit, several tickets were issued to night time speeders because if a person was traveling at 90 miles an hour during the day time and slowed down to 70 at night, they felt they had stopped, but were in fact driving 15 miles over the speed limit. In 1972, Montana fatality rate was 395, which was the all time high. Since there has been imposed some kind of a day time speed limit, which has slowed down many of the law abiding citizens, the death rate has never been in excess. He believed that was point in favor of this bill.

Senator Crippen asked if that couldn't that be attributed to better roads and Colonel Griffith responded that the roads have been improved and the automobiles are improving.

Senator Crippen then stated that he had been opposed to this in the past but had changed his mind for two reasons. One, the \$5.00 fine is not even close to what it costs to write it and the speed limit fines should at least cover what it costs to issue the ticket, especially in light of the budget restraints. The other reasons is that like it or not, the federal government said we do have a conservation crisis. We may disagree, but the law

is a federal law and we are law abiding people. We may not like it, but we have to obey the law. He said at \$5.00 the Highway Patrol is not as apt to stop a vehicle, and there is always discussion on the "fudge factor". Would there still be the discretion allowed an officer, whether he or she really wants to pursue the individual driving 68 miles an hour to issue a speeding ticket. Colonel Griffith responded there would be the discretion allowed to the Highway Patrol officer.

Senator Rye asked if the fines were still not reported on an individual's permanent driving record and if not, wouldn't it be wise to do that. Attorney General Mazurek said the fines are not part of the permanent driving record, that the people of Montana at this time would not accept that, and felt this should be taken one step at a time.

Senator Bartlett asked Attorney General Mazurek if the cost of writing tickets is around \$15.00 and was told that was correct. Allocating the operating cost of the Highway Patrol, estimated time for stopping and so forth. That is an approximation.

Senator Bartlett asked why the department is proposing to have the fine be at least \$15.00 to cover the costs. Attorney General Mazurek responded that the department feels there would still be enough people who would exceed the speed limit incurred at the higher fines, which go up incrementally \$3.00 per hour above the 10 miles, to make up the difference. In fact, the budget office estimates the revenue to be almost \$900,000 which is approximately \$600,000 higher than it is now.

Senator Bartlett said the fiscal note indicates a portion of the fines go to various special revenue accounts and state special revenue accounts, and asked what a sampling of what those accounts might be. Attorney General Mazurek responded that the department opted not to change the allocation at all. The formula is 27.88% goes to general fund, 9.9% to Fish and Game, 11.76% to State Highway, 3.86% to traffic education, .57% to the Department of Livestock, 15.9% to crime victims compensation, and .94% to Family Services. This is set forth in Section 3-10-601 where 50% goes to the state, the other 50% goes to the County Treasurer.

Senator Doherty asked Attorney General Mazurek how much is allocated to Department of Livestock and was told .57% of the 50% which comes to the state. Colonel Griffith estimates its about \$90,000 a year.

Senator Blaylock said if the fine was raised to just \$10.00, it would be almost the same as it was when first enacted because the inflation factor is there. If the fine was proposed to be \$15.00 rather than \$10.00 to cover the costs of issuing and drop the 10 to 5 miles over the speed limit, would that seriously endanger the passage of the bill. Attorney General Mazurek responded that the Legislature would have to answer that, but his thoughts were

the department ought to propose a bill that was \$15.00 for 10 miles over and then go up \$3.00 per mile from there and was persuaded that probably would not be acceptable to the Legislature. Any increase is difficult to pass. The state still does have the basic rule statute where a person is driving too fast for existing conditions if a motorist is endangering the lives of others. The Highway Patrol officers will have, as they do now, the discretion to issue the basic rule citation. Frankly, it is not issued too often as they are frequently contested.

Senator Grosfield asked if an amendment could be added that puts the increase of the fine into the general fund account only. Attorney General Mazurek said when the department originally contemplated this bill, that is what was considered, however, there must be a history as to how the allocation was developed. In some cases, there is a cap of what the other services can receive, so above that amount it would go into the general fund. He believed that decision would be up to the discretion of the Legislature.

Senator Halligan indicated that was his concern as well, the money should go to the general fund, and that is the only way he would support the bill.

**Closing by Sponsor:**

Senator Stang stated that the fine increase should not be imposed just for the money, but should be imposed because it's right. It will help with the safety on the highways. Responding to the one opponent, this is a user fee. If you do not speed, it won't cost you anymore. We knew when we moved here that it's a large state and believed it would increase safety. When emergency vehicles are responding to highway incidents, motorists will still drive past driving as fast as 75 miles an hour. It is time that the emergency vehicles and patrol gain respect so when motorists see them, they will slow down.

Senator Grosfield said he would like to hold off executive action to have Ms. Lane figure out how the additional increment could be applied just to the state fund. At this time, 50% goes to the state and 50% goes to the county general fund. Of the 50% that goes to the state, any increase over the current law would go to the state general fund.

Senator Yellowtail asked Valencia Lane what her assessment of difficulty would be.

Valencia Lane responded she would draft such an amendment, however, there is one practical concern to bring to the committee's attention and that is the fact that this statute that Attorney General Mazurek pointed out, 3-10-601, is in the justice of the peace courts statutes. What the justice of the peace does now is take all of the fines and penalties collected in the court

regardless of the source of the fine, turn it over to the County Treasurer who divides it, 50% goes to the county general fund and 50% to the State Treasurer, the 50% to the State Treasurer goes into various accounts. There is no tracking of the source of the fine. It is all one lump sum that goes from the city court to the County Treasurer. If you request the justice of the peace courts track the source of the fines, it will require an administrative burden that they do not currently have, and they would probably object to that type of amendment. She said she would draft such an amendment for the committee.

Senator Yellowtail said it is Senator Grosfield's intention to at least examine that aspect and asked if it would be possible to look through the legislative record to determine whatever the justification was throughout history to set up these various distributions.

Senator Crippen commented that we need to take into consideration Senator Blaylock's comments, because he believed that will defeat the bill. We live in a big state, and have long distances to drive. We need to maintain a balance here. He said he would support increasing the cost to \$15.00 because of the costs involved in issuing the ticket.

Senator Bartlett commented about taking the additional revenue and placing it in the state general fund, two of the areas to which the distribution now goes includes traffic education and crime victims compensation accounts. Both of those are subject to other legislation in the special session. The crime victims account is capped. The legislation will take the excess beyond that cap. Included in the state general fund, traffic education is proposed to be unfunded, so those funds could in fact go to the state general fund. A third one, the highway account has been brought to our attention repeatedly, may be in trouble anyway. Giving consideration to the potential for specifying money to the state general fund, the bulk of it probably is going to go to the state general fund and/or highway account anyway. The increased burden on the justice courts should be taken into account as well.

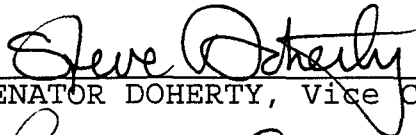
Senator Doherty commented that Officer Murphy was seriously injured in a shooting incident just north of Great Falls when apprehending a felon. When it is stated that our officers don't know what's going to happen in stopping a car, Officer Murphy speaks from personal experience.

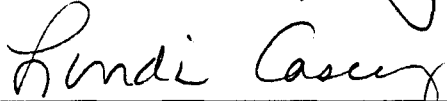
Senator Yellowtail asked that Senator Bartlett and Senator Grosfield work with Valencia Lane on this amendment. We will try to do executive action on this bill tomorrow afternoon upon adjournment.



ADJOURNMENT

Adjournment: 9:15 a.m.

  
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SENATOR DOHERTY, Vice Chair

  
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LINDA CASEY, WPC Supervisor

SD/11c

# ROLL CALL

*Hearing*

SENATE COMMITTEE JUDICIARY DATE 12-9-93

NAME	PRESENT	ABSENT	EXCUSED
SENATOR YELLOWTAIL, Chair	✓		
SENATOR DOHERTY, V. C.	✓		
SENATOR BARTLETT	✓		
SENATOR BLAYLOCK	✓		
SENATOR BROWN	✓		
SENATOR CRIPPEN	✓		
SENATOR FRANKLIN	✓		
SENATOR GROSFIELD	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR RYE	✓		
SENATOR TOWE		✓	

Attach to each day's minutes

DATE 12/9/93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 24

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Bob Griffith	Hiring Patrol		X	
Mary Pat MURPHY	MHP		X	
JOHN STEWART	MHP		X	
BILL BAHNG	SELF			X
Randi Hood	County All's Assn		X	
Ed Hall	MBCC		X	
Beverly Gibson	MACO		X	

### VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY