

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - SPECIAL SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **REP. BOB CLARK, CHAIRMAN**, on December 14, 1993, at 1:05 P.M.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Karyl Winslow, Vice Chairman (R)
Rep. Shiell Anderson (R)
Rep. Joe Barnett (R)
Rep. Bill Endy (D)
Rep. David Ewer (D)
Rep. Pat Galvin (D)
Rep. Marian Hanson (R)
Rep. Vern Keller (R)
Rep. Don Larson (D)
Rep. Gary Mason (R)
Rep. Bill Ryan (D)
Rep. Wayne Stanford (D)
Rep. Bill Tash (R)
Rep. Randy Vogel (R)
Rep. Tim Whalen (D)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Council
Alberta Strachan, Committee Secretary

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

Committee Business Summary

Hearing: **REP. CLARK** opened the meeting on SB 24.

SEN. BARRY STANG, District 26, St. Regis, opened the hearing on SB 24. He said this bill was an increase from \$5 to \$10 with \$3 increments going into effect for speeds over 75 mph. The most important thing to remember about this bill is that it does not change the fuel conservation fee. This ticket does not go on the record and is not reported to the insurance company. He said the increase is necessary to maintain the integrity and the morale of law enforcement personnel.

PROPONENTS:

Joe Mazurek, Attorney General, Department of Justice, was introduced at the request of the Department of Justice. He said the work of the Highway Patrol and other law enforcement officers in enforcing the speed limit and other laws is are deadly serious. There have been an an increasing number of incidents where Highway Patrol officers are involved in shooting incidents. They are doing a serious job, putting their lives at risk every day enforcing the "nickel ticket" as a joke and the officers are the victims of the joke. The bill it would incidentally raise additional money for the General Fund for local governments as well as being a law enforcement measure. Excessive speed was noted in almost 29% of the fatal crashes. Almost 20 years ago, the \$5 ticket was a joke aimed at the federal government. The lack of a fine has some serious detrimental effects and those include highway safety, eroding respect for law enforcement and moral of the Highway Patrol and other law enforcement officers. It is also expensive. This small fine is less then 1/3 of the cost of writing tickets. The \$5 ticket sends a very strong message. It tells young people, as they are learning to drive that it is okay to break the law. Highway Patrol officers are not taken seriously because they are only going to issue a \$5 ticket. Those are the wrong messages. What started out as a joke has become a joke on the state. To target the drivers whose excessive speed shows a complete disregard for the law and for the safety of others, keeping people within a reasonable range of speed is the motive. This bill will increase revenue. There would be approximately \$880,000 raised. Of that amount, 50% is allocated to counties and 50% is allocated to the state. The Magistrates Association has a proposed amendment to the bill which would cap the existing allocation of fines. **EXHIBIT 1**

Colonel Bob Griffith, Montana Highway Patrol said this has not been a very harmonious blend of law enforcement and the law. It is an aggravating situation to law enforcement personnel. Every session since 1975 either at the request of the Department of Justice or on their own, some legislator has introduced a bill on the speed limit.

Officer John Stewart, Montana Highway Patrol, stated that he had been on the Patrol for over 20 years. He said he has had difficulty enforcing the \$5 fine and asked for special consideration of this increase in the fine. The increase would not "line anybody's pockets." The officers are asking for special help.

Officer Mary Pat Murphy, Montana Highway Patrol, stated that part of her job is talking to people in the community, military and students and driver's education. In all those talks she is questioned about the \$5 ticket. It is impossible to enforce the law that is not taken seriously. It is not uncommon for a Highway Patrol officer to stop a violator and while approaching the car have the driver roll down his window and hand out a

driver's license with a \$5 bill. The speed violation is not a deterrent; it is a discredit to the law and those who enforce it.

REP. TIM SAYLES, District 61, Missoula, stated his support of the bill. He distributed an amendment. **EXHIBIT 2** In this amendment, the funding mechanism is through the DSL which has grants throughout the state for small agencies without highway extraction equipment. One percent of the funding would be allocated for equipment.

Ed Hall, Executive Director, Board of Crime Control, said the mission of the board is to improve the justice system. The board feels that one of the most important tools is prevention. The development for a respect of the law establishes standards for people to behave properly in society. The message needs to be consistent in law enforcement.

Kent Mollohan, Assistant Administrator, Highway Traffic Safety Division, Department of Justice, supports this bill. Raising the fine is not a deterrent. It is time to end what is possibly a joke and that keep the fine consistent with the violation on a staged increment level. Maintaining good leadership in enacting laws will enable the people to respect the outcome.

John Connor, Prosecutor, Attorney General's Office, stated that he was also appearing on behalf of the **County Attorney's Association** in support of this bill. The Association is comprised of all of Montana's 56 county attorneys. County attorneys prosecute cases that might arise under this new law or might develop as a result of challenges to the law. Every time a law enforcement officers stop a vehicle, they are potentially putting their lives at risk. It is time to make a commensurate commitment to the respect that law enforcement officers deserve.

REP. RANDY VOGEL, District 86, Billings, stated that he was a police officer and had on many occasions traveled at a high rate of speed: A vehicle traveling at that high rate of speed on the highways is going to destroy anything in front of that vehicle because of the lack of control. When traveling with red lights and a siren it is still quite terrifying. The law must be changed to make people who want to drive that fast pay to do so or drive within reason.

Patrick Chenovick, Administrator, Supreme Court, stated he was neither a proponent nor opponent to this bill but had an amendment to Section 5. This amendment would accumulate the money collected in fines, give it to the county treasurers who would distribute this money at 50% to the county and 50% to the state. When the 50% was distributed to the state, the State Treasurer would do the allocation to those funds up to the 1993 revenue received. Any amount in excess would go to the General Fund. Another ramification would have the Justice Department automate the system to keep track of the restitution and monthly distribution to the county treasurers. **EXHIBIT 2**

OPPONENTS:

REP. SONNY HANSON, District 87, Billings, said the state should not write tickets on highways during the day. The State is losing money because of the accounting process. The Attorney General suggested that the fine should have been raised for the last 20 years. Traveling fast is not breaking the law; it is a penalty for excessive resource use. This is a tax increase no matter how it is phrased. In reviewing accidents for 1992, there were 17,000 accidents that year; 11,000 occurred during day time hours and 8,000 occurred in cities. Cities have laws for speeding. This law does not apply to this. Speeding during daylight hours accounted for 3,000 accidents. He said that he was firmly convinced that the purpose of this bill is not to affect the morale of the Patrol. Their function is to write tickets, be it \$5 or \$500; investigate accidents and assist on the highway.

REP. DOUGLAS WAGNER, District 8, Hungry Horse, stated he was a firm believer in seat belts. The \$5 fine is not a joke. There is a problem but it is not the amount of the fine. Perhaps it is the speed limit. Because of newer construction of the highways the 55 mph speed limit does not seem relevant. Rather than trying to raise the penalty for breaking the speed limit, change the speed limit. Montana has enormous wealth. Montana's natural resource base is incredible. Instead of shutting down industry we would encourage more tourism in the state. The state could build more roads, repair them and federally mandated money would not be required. That is the direction Montana should take.

Bill Morton said he had worked for the Department of Transportation for 26 years in traffic engineering. Accurate figures are not being given or there is more money to be acquired.

QUESTIONS:

REP. WINSLOW asked whether the six counties in eastern Montana that were without Highway Patrol service are still without service. She also wondered whether there are other areas in the state without service. She asked if the Highway Patrol was adequately funded at this time. She then asked about the funding mechanism in this section of the law and how it might better benefit the department. If there is not adequate service in eastern Montana, she asked why the legislature is pouring this money into the General Fund or trying to fund an extraction service in counties. She said she would not treat this legislation as a joke if people came to the legislature and could show that there would be a benefit to the Highway Patrol if this legislation were passed.

Col. Griffith said there was no service in the eastern six counties. Liberty County may be without service. He said that the Patrol was not funded properly.

REP. WINSLOW asked if there was discussion about the possibility of changing the funding mechanism in this section of the law. She also asked if, in the future, the Attorney General's office would be willing to de-earmark these funds and have all of the money from the traffic fines go into the General Fund.

Mr. Mazurek said this bill had been proposed because of the funding issue. There is a history of allocation funds that precedes the session. The legislature does not want the Highway Patrol or any other law enforcement agency to be responsible for raising the revenue. The money should go to the General Fund. The money is not ear marked here because this side of the issue has not been resolved. Having the traffic fines in the General Fund is what motivated this bill. This is an issue being studied by the legislature right now. Montana is the most ear mark budgeted state in the nation.

REP. WINSLOW said the public perception may be that this is a tax bill.

SEN. STANG, stated that is not a tax increase. There is an increase is only if a person violates the fuel conservation law.

REP. LARSON questioned the fiscal note.

SEN. STANG said these fines were going into the state special fund. The amendment proposed by **SEN. GROSSFIELD** will take that money from the state special fund and place it in the General Fund.

Mr. Mazurek said there is nothing in the basic rule statute that says driving 80 mph is a basic rule violation. A person may be driving 5 mph over the speed limit on an icy road and get a basic rule ticket or may be driving 80 mph on the interstate and not get a basic rule. It is at the officer's discretion, and those are the decisions these officers make every day. There is no law that says that 80 mph gets a basic rule violation.

Officer Stewart said many of the officers do not issue citations for basic or careless driving at 80 mph. There has not been a county attorney who has coached him regarding his judgment.

REP. GALVIN asked if Liberty County received service and about the status for service in the six other counties mentioned previously.

Col. Griffith stated there was not a resident officer in these counties.

REP. WHALEN asked if tickets were being monitored and whether federal aid is received for the interstate system.

Mr. Mollohan said they are constantly monitoring the state speed. The Department of Transportation does the counts and maintains

the speed analysis unit and documentation of all the speeds. They are adjusting their new factors in terms of making those adjustments where people are speeding. This is done all over the state. Money is received for interstates plus other state roads.

REP. VOGEL asked if **Officer Stewart** had encountered a justice of the peace or judge who does not like the idea of basic rule.

Officer Stewart said he had. Most of the justice of the peace feel the citation should be for the \$5 variety versus the \$65 variety. It is easier for an individual to come in and plead guilty to a \$5 ticket with no penalties and it saves them the court dockets of having trials scheduled.

Mr. Connor said the county attorney's prospective of the basic rule is a statute which preceded the conservation statute and has been in existence since 1955. It is generally considered by prosecutors to not be a particularly favorable statute under which to proceed from a prosecution prospective because there are so many elements that need to be proven. Initially, a hazard must exist, and road conditions must make it necessary before a conviction may occur.

REP. VOGEL asked if **CHAIRMAN CLARK** had encountered any difficulty in writing the basic rule ticket and if the highway was two lane or four lane.

CHAIRMAN CLARK said he had had more trouble with reckless driving citations where speed was involved than basic rule or careless driving. Careless driving was accepted for high speed offenses. Above 80 mph the other things were always factored in before a basic rule was written. When a person was traveling over 100 mph it was time to start writing reckless driving offenses. Not all judges think that is a good idea. Two lanes are the primary highway for these offenses but some of the two lanes were also engineered for 80 mph.

REP. HANSON asked what percent of fatal accidents with liquor and speed are in the daylight hours. She also questioned whether semi-tractors are allowed to drive 60 mph on two lane roads.

Col. Griffith said he did not know. Sixty miles per hour is allowed for trucks.

REP. MASON said there was a continuing need for fuel conservation even with the new cars because of the much better fuel mileage.

Mr. Mazurek said anytime we are dealing with a finite resource, we should be concerned with how people drive. That is not the issue here. There is a speed limit that people feel they can break. The wrong message is sent to young people and every other driver around the state about this law. The federal issue is what was agreed upon 20 years ago. In terms of what is politically possible, this step is acceptable.

CHAIRMAN CLARK said that **SEN. STANG** had made the comment that this would be 75 mph on the interstate in his opening statement. He wondered if there would be an update on the fiscal note before the bill gets to the House floor.

SEN. STANG said if a driver was going over 65-75 mph the fine would be \$10. The fine for 76 mph the fine would be \$13. The fine would be \$16 for 77 mph. Further work on the fiscal note is not anticipated.

CHAIRMAN CLARK then asked if there had been a daytime speed limit prior to 1958.

Col. Griffith said there was not a daytime speed limit. In 1957 the Highway Commission set a statewide 65 mph speed zone. When the 1959 session convened they amended the law to say the Highway Commission may set speed zones but they cannot set a statewide speed zone. That was the only time there was a daytime speed limit until it was enacted in 1974.

CHAIRMAN CLARK asked **REP. SAYLES** if his amendment could be expanded to include rural ambulance services because there are many rural ambulance services in the state that do not have this emergency equipment.

REP. SAYLES said that he would include the provision.

CHAIRMAN CLARK questioned the chart distributed which indicated that in 1972, 398 people died on the highways; that year is not listed on **REP. HANSON'S** figures.

REP. HANSON said he had requested the library to retrieve all fatality records. His purpose was to accumulate a sequential effect of 1955, 1960, 1965 and 1970 and the fatalities rate after the 55 mph speed limit; the fatalities continued to increase. After the speed limit was increased to 65 mph, the fatalities dropped.

CHAIRMAN CLARK thinks this is a safety issue. When there was a 33% drop in the traffic fatalities in the three year period the speed limit probably had a drastic impact on that drop.

REP. HANSON disagreed, saying that even the government had put out a study showing that the increase of 65 mph saved lives; this was issued in February 1993. The reason for the increase in fatalities is drinking and driving. The drinking pattern has changed. That is the big item. That is the basis of his discussion and efforts to kill the fine because the speed and speeding fine are not the big issue.

CHAIRMAN CLARK said he disputed this theory. If **REP. HANSON** felt that stiffer punishment has slowed the drunk drivers, why would the stiffer punishment for speeding not do the same thing.

CHAIRMAN CLARK then questioned the federal study. There are several studies out that indicate fatalities have increased on the interstate. There has been a noticeable increase in fatalities on interstates.

REP. HANSON said in all probability the penalties are so much higher and the people are not staying awake.

SEN. STANG closed on the bill.

ADJOURNMENT

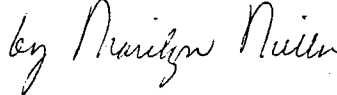
Adjournment: 3:00 P.M.



REP. BOB CLARK, Chairman



ALBERTA STRACHAN, Secretary


by Marilyn Miller

BC/as

SCHEDULE OF PROPOSED SPEEDING FINES

65 MPH SPEED LIMIT	FINE	55 MPH SPEED LIMIT
75 mph	\$10	65 mph
76 mph	\$13	66 mph
77 mph	\$16	67 mph
78 mph	\$19	68 mph
79 mph	\$22	69 mph
80 mph	\$25	70 mph
81 mph	\$28	71 mph
82 mph	\$31	72 mph
83 mph	\$34	73 mph
84 mph	\$37	74 mph
85 mph	\$40	75 mph
86 mph	\$43	76 mph
87 mph	\$46	77 mph
88 mph	\$49	78 mph
89 mph	\$52	79 mph
90 mph	\$55	80 mph

Consequences of excessive speed in Montana in 1992:

- Driving practices related to unsafe speed, such as following too closely and reckless driving, accounted for 35 percent of the at-fault, driver-related factors in fatal crashes
- Excessive speed was noted in 29 percent of the fatal crashes in which the drivers involved failed to use seat belts.
- Speed was recorded as an additional factor in 44 percent of the fatal crashes involving alcohol use.

(From the Highway Traffic Safety Division of the Montana Department of Justice)

11/30/93

12-14-93
SB 24

DEPARTMENT OF JUSTICE HIGHER FINES FOR SPEEDING

The Department of Justice is proposing that the Legislature increase the current \$5 fine for violating the highway speed limit. Under the proposal, a driver ticketed for going up to 10 mph over the daytime speed limit would pay \$10. The fine would increase \$3 for every mile per hour beyond that.

The Montana Highway Patrol enforces the current \$5 speeding ticket, and issued 70,509 tickets last year. The \$5 ticket:

- ▶ is detrimental to highway safety,
- ▶ erodes respect for law enforcement, and
- ▶ does not begin to cover the cost of issuing a ticket.

National studies have shown that speed is the most significant factor in the physical forces involved in crashes. Drivers traveling at a high rate of speed increase:

- ▶ the distance a vehicle travels during the period of time (estimated, under optimal conditions, to be at least 2.5 seconds) it takes for a driver to react to a perceived danger.
- ▶ the total stopping distance necessary to halt a vehicle in response to a perceived or actual danger.
- ▶ the speed at which a car will hit an obstacle if the driver cannot stop the car before hitting the obstacle.
- ▶ the severity of the crash. The chances of death or serious injury double with every 10 mph a driver is traveling over 50 mph.
- ▶ the variance of the speeds at which different drivers are traveling on the same stretch of highway at the same time. Speed variance is closely related to many other types of hazardous traffic violations, such as unsafe lane changing and following too closely.¹

Under the Department of Justice proposal, tickets would still be issued for violating the fuel conservation speed limit, and no additional penalties beyond the higher fine are proposed. As is the practice now, the violation would not be a criminal offense and would not become part of a driver's record for consideration by insurance companies in setting premiums.

While there is no breakdown of the number of tickets issued at varying speeds last year, simply increasing the minimum fine to \$10 would have brought in an additional \$352,545 in 1992.

The allocation of revenue from the higher fines would remain the same, with 50 percent going to the county in which the ticket is issued and 50 percent going to the state. Nearly 28 percent of the state's share goes to the general fund, which pays for the general operating costs of state government.

¹ "Off Limits: A Reference Guide..." National Highway Traffic Safety Administration, 1989.)

MONTANA ACCIDENT, INJURY, AND FATALITY RATES

Year	Accidents		Fatalities		Injuries		Vehicle Mile
	Number	Rate	Number	Rate	Number	Rate	(Million)
1950	5,128	262.4	202	10.34	2,028	103.8	1,954
1955	9,829	383.8	236	9.22	3,099	121.0	2,561
1960	9,147	234.8	222	5.7	4,043	103.8	3,896
1965	16,672	421.4	280	7.08	7,283	184.1	3,956
1970	15,276	313.9	318	6.53	8,449	173.6	4,867
**1974- Day Time Speed Limit Law at 55 MPH -- Feds. threaten us if we do not institute.							
1975	18,776	328.1	298	5.21	9,020	157.6	5,723
1980	20,595	311.7	325	4.92	9,779	148.0	6,607
1985	17,936	236.9	223	2.95	8,701	114.9	7,570
**1987- Passed Seat Belt Law and increase in Speed Limit to 65 MPH.							
1990	16,456	197.0	212	2.54	8,250	99.0	8,331
1991	17,058	198.2	202	2.33	8,445	98.5	8,581

Note

1992 Total Accidents ± 17,000; Day Time 11,000; IN CITIES 8,000; Day Time Highway 3000

12-14-93
SB 24

December 14, 1993

Exhibit #2 was not transmitted with the minutes.

HOYT & BLEWETT

ATTORNEYS AT LAW

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86
EXHIBIT 3
12-14-93
SB 24

December 13, 1993

Beau Shand

VIA FACSIMILE

Honorable Patrick G. Galvin
House of Representatives
Capitol Building
Helena, MT 59601

Dear Pat:

Without exception, everyone we have talked to is appalled at the proposed increases in fines for speeding. The system works just fine as it is.

An alternative would be to cut the funding to the Highway Patrol by fifty percent. This would save a lot of money and focus the attention of the remaining patrolmen on important things rather than writing speeding tickets.

The savings by cutting the funding to the Highway Patrol should be used for improving our highways in order to make them safer and better.

The cost of air transportation has gone up tremendously and the availability of air service has gone down enormously. That just leaves vehicles to get from point to point in Montana. Time is an important item to most of us and, particularly, those who have no options in traveling.

Only those who live in Billings and Bozeman have decent air service and then only to points outside Montana. At the same time, many Montanans must travel. Why make it more difficult and expensive?

Respectfully,

John C. Hoyt
John C. Hoyt

JCH:jld

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Highway COMMITTEE BILL NO. SB 24
 DATE 12-14-93 SPONSOR(S) Stang

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Mary Pat MURPHY	MHP			X
John Connor	MT. County Atty Assn			X
PATRICK CHENOVICK	SUPREME COURT			X
KENT MOLLOHAN	HIGHWAY TRAFFIC SAFETY			✓
Bill Morton	Self		As Written	
Ed Hall	MBCC			X
JOHN STEWART	HIGHWAY PATROL			X
Doug Wagner	Legislature		X	
SONNY HANSEN	"		X	
Bob Griffin	M.H.P.			X

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