

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN LARRY TVEIT**, on February 16, 1995, at 8:05 p.m. in Room 410.

ROLL CALL

Members Present:

Sen. Larry J. Tveit, Chairman (R)
Sen. Charles "Chuck" Swysgood, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Arnie A. Mohl (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Carla Turk, Committee Secretary

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

Committee Business Summary:

Hearing: None.
Executive Action: SB 251 DO PASS AS AMENDED
SB 183
SB 281 DO PASS
SB 283 DO PASS
SB 315 TABLED
SB 321 DO PASS
SB 355 DO PASS AS AMENDED

EXECUTIVE ACTION ON SB 315

Discussion:

CHAIRMAN TVEIT distributed opposing testimony from **Karst Stage**, which had arrived after the afternoon Committee meeting (**EXHIBIT # 1**).

Motion:

SENATOR STANG MOVED TO ADOPT AMENDMENTS NUMBERED SB031501.ACE, (EXHIBIT # 2).

Discussion:

SENATOR STANG explained that during his service on the Highway Committee he had seen many cases where a business and the Public Service Commission (PSC) had a disagreement which led to a court case. He said the Legislature was often approached by the business for the purpose of changing the law to settle the issue before the court settled the issue. He said that made him nervous because the Legislature may be changing something which did not need to be fixed. He explained that the amendment would provide that the exemption for courtesy transportation did not apply to a city, town or village with a population of less than 2,500 persons according to the latest United States Census. He stated the amendment would provide for all the proponents except for the Whitefish area which was currently in court and should be left in the courts.

Motion:

SENATOR COLE MADE A SUBSTITUTE MOTION TO ADOPT AMENDMENT #SB031502.ACE, (EXHIBIT # 3).

Discussion:

SENATOR COLE said he agreed with SENATOR STANG but felt the population limit should be 7,500 people. He said he felt the problem seemed to arise when the population was over 7,500.

SENATOR STANG stated he would resist the substitute amendment because changing the limit to a population of 7,500 would include 3/4 of the towns in Montana. He reiterated the situation with the urban areas was in court and should be decided there.

SENATOR SWYSGOOD stated he opposed both amendments and contended the approach was incorrect.

Vote:

SENATOR COLE'S SUBSTITUTE MOTION TO ADOPT AMENDMENT NUMBER #SB031502.ACE, (EXHIBIT # 3) CARRIED ON ROLL CALL VOTE NUMBER 1. SENATORS SWYSGOOD, NELSON, STANG, AND JERGSON VOTED NO.

Motion:

SENATOR MOHL MOVED SB 315 DO PASS AS AMENDED.

Discussion:

SENATOR SWYSGOOD stated carriers should either be regulated or deregulated but piecemeal regulation was wrong, and the deregulation of a select group would only benefit the large hotels and motels. He said there were many public carriers who had a large investment in their authority and were subject to certain requirements. To allow others to possess the same rights without the same requirements was unfair. He said the group requesting to be deregulated was doing so for self-serving reasons. He stated they were not concerned about the public just their private profits. He insisted that passing SB 315 would be a mistake and an expense to the public. He stated he was not going to support the Bill.

SENATOR MOHL stated that the problem being addressed in SB 315 could have been alleviated if the PSC would have taken immediate action. He explained the PSC could take immediate action to grant authority in areas where there was not competition, but if another carrier offered the public service then anyone else applying was required to go to a hearing in an effort to explain to the Commission why another carrier was necessary. He said the PSC could stall the applying carrier forever and didn't believe that was right. He said this was built on competition and all businesses had it. He said that any business would love to have a requirement that no one could compete for their business. He said there was indication that service wasn't being provided as fast as it should be, and it was keeping the public waiting. He said he didn't like the process by which this Bill evolved, but urged passage of the Bill because the problem did exist.

SENATOR COLE agreed with **SENATOR MOHL** and added SB 315 was probably the best compromise.

SENATOR JERGESON noted it was ironic that many of the country's problems were blamed on regulation, and yet in some cases regulation was the very thing that allowed certain businesses to survive and thrive. He explained SB 315 was not really a deregulation bill, but more of a free entry into a regulated industry. He said he almost wished **SENATOR SWYSGOOD** had pursued total deregulation, as many times regulation was nothing more than the restriction of entry into a profession or trade. He said SB 315 didn't really get at the heart of the problem and what needed to be debated was for what purpose did the State regulate and who was supposed to benefit.

SENATOR STANG read a portion of numbers 1 and 4 of **EXHIBIT # 1** and stated the letter seemed to summarize the whole situation. He reiterated his thoughts that the Legislature should not make

decisions on changing the law until after the current process was completed and a court ruling was made. He said SB 315 may create a law which was not needed, as the court could still rule in favor of those who were advocating passage of the Bill.

SENATOR SWYSGOOD explained that to obtain authority from the PSC a business had to prove public need for the service. He stated that this specific industry hadn't been able to prove public need because their service was self-serving to their own business. He concluded that the business was asking the Legislature to change the law because they could not meet the qualifications. He maintained there was an existing process available to those businesses.

SENATOR MOHL reminded the Committee of the testimony presented by the people from small towns who were operating illegally because it was the only way for them to transport their customers. He stated that if all those businesses were to apply for a permit, the PSC would be so inundated with applications that the process could take longer than a business could financially endure.

SENATOR SWYSGOOD reviewed the fact that there were areas with no regulated carrier to provide public transportation, and a hotel could pick up their customers, take them to any chosen destination, or even lend them a car if the hotel wanted to. He said no one objected, and the businesses were not required to be a regulated carrier when no other business had that authority.

Motion/Vote:

SENATOR STANG'S MOTION TO TABLE SB 315 CARRIED 6-3 ON ROLL CALL VOTE #2.

SENATORS TVEIT, SWYSGOOD, NELSON, STANG, JERGESON, AND JABS VOTED YES.

SENATORS HOLDEN, COLE AND MOHL VOTED NO.

EXECUTIVE ACTION ON SB 321

Discussion:

CHAIRMAN TVEIT handed out opposing testimony from Michael Grayson who had been unaware of the accelerated opening time of the Hearing on SB 321 (EXHIBIT # 4).

Discussion:

SENATOR JERGESON explained that the law prior to 1993's Special Session provided for ½%-of-1%, and stated that 15/28-of-1% was slightly greater. He suggested that 7/16-of-1% would be a good

compromise number since it did not exceed the provisions of the law prior to 1993.

Motion:

SENATOR JERGESON MOVED TO AMEND SB 321 BY STRIKING "15/28" AND INSERTING "7/16".

Discussion:

SENATOR SWYSGOOD expressed resistance to the amendment, as the snowmobilers had bought the gas, paid the tax on it, and the gas had been used off-road. He stated that farmers and other groups who paid taxes on fuel which was used off-road were able to file for a refund of their tax money. He said the snowmobilers were only requesting a portion of the taxes they paid to allow them the ability to maintain their trails and attract both Montana and out-of-state recreationists to Montana. He said the snowmobile industry was big in Montana and the compromise contained in SB 321 was based on the amount of fuel used by registered snowmobiles. He said there were over 30,000 unregistered snowmobiles for which the snowmobilers would not receive compensation for off-road fuel use.

SENATOR MOHL stated he was in favor of the percentage stated in the Bill. He stated that if the snowmobilers came back next Session seeking more money, without having corrected the number of unregistered snowmobiles, he would resist the increase.

SENATOR RIC HOLDEN agreed with SENATOR MOHL and stated he would oppose the amendment.

SENATOR NELSON expressed support for the motion. She noted 7/16 was a fair increase at a time when the Montana Department of Transportation budget was already under stress.

Vote:

SENATOR JERGESON'S MOTION TO AMEND SB 321 BY STRIKING "15/28" AND INSERTING "7/16" FAILED 2-7 ON ROLL CALL VOTE #3.
SENATORS NELSON AND JERGESON VOTED YES.

Motion/Vote:

SENATOR JERGESON'S MOTION TO AMEND SB 321 BY STRIKING "15/28" AND INSERTING "1/2" FAILED 3-6 WITH SENATORS STANG, NELSON, AND JERGESON VOTING YES.

Motion/Vote:

SENATOR SWYSGOOD'S MOTION THAT SB 321 DO PASS CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 281

Motion/Vote:

SENATOR MOHL'S MOTION THAT SB 281 DO PASS CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 283

Motion:

SENATOR JABS' MOTION THAT SB 283 DO PASS CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 251

Motion/Vote:

SENATOR SWYSGOOD MOVED TO RECONSIDER ACTION ON SB 251. SENATOR STANG SECONDED THE MOTION. THE MOTION CARRIED 6-3 WITH SENATORS NELSON, HOLDEN, AND MOHL VOTING NO.

Motion:

SENATOR SWYSGOOD MOVED SB 251 DO PASS.

Discussion:

SENATOR JERGESON expressed support for the motion in view of the fact that the Bill was a collaborative effort which was a good example of how problems should be solved in Montana. He did not believe the Legislature should discourage groups from working out their own solutions by refusing their proposed legislation. He stated that failure to pass the Bill out of Committee could prove detrimental to the continuation of a valued and resourceful process.

SENATOR COLE stated agreement with SENATOR JERGESON'S statement and said he would support SB 251.

SENATOR NELSON stated one of her constituents had attended the meetings faithfully but considered them a total waste of time.

SENATOR HOLDEN asked what benefit SB 251 would provide to Montanans? **SENATOR SWYSGOOD** stated it would set the ground work for the Department of Natural Resources and Montana Department of Transportation (MDT) to work together on energy saving issues relative to highway transportation. He described that process as a first step toward a solution of transportation needs in Montana.

CHAIRMAN TVEIT asked how the cooperation between SB 251 and the MDT would affect the Department's projects? **Pat Saindon, Department of Transportation**, said the Department supported the Bill in its current form. She stated the Department's only concern was that SB 251 did not go far enough. She explained that the Department was concerned about being drawn into future collaboratives on the issues contained in the Bill and felt the possibility existed for an adverse affect on the delivery of the transportation program.

SENATOR HOLDEN argued that by passing SB 251 it would send a message to the Environmental Quality Control (EQC) that they could continue with their projects, while drawing the Montana Department of Transportation into their projects under the guise of being a collaborative. He believed the Legislature should be sending a message that the EQC was wasting tax dollars on these projects.

SENATOR NELSON agreed with **SENATOR HOLDEN** and added the projects involved duplication at a high cost. She said it was her thought that that was the type of thing the public did not approve of.

{Tape: 1; Side: B}

SENATOR MOHL stated he did not agree with giving State money for starting new projects when the returns weren't historically good. He said he was not opposed to experimenting, but he did not believe it should be done with the State's money. He stated there should possibly be a clause in the Bill stating that if the project was successful the start-up money should be repaid.

CHAIRMAN TVEIT referred to the language at the bottom of page 2 and stated that current law provided for incentives. He stated nothing was being given away, as the incentives were in place regarding ethanol. He explained that the Bill referred to phasing out those incentives and to considering incentives to provide for the production and retail movement and consumption of ethanol.

Motion:

SENATOR JABS MOVED TO AMEND SB 251 ON PAGE 2, LINE 21 BY INSERTING "AND ECONOMIC" AFTER "ENVIRONMENTAL" AMENDMENT NUMBER SB025101.ACE (EXHIBIT # 4A).

Discussion:

SENATOR JERGESON referred to Section 1 (1), page 2, line 1, and said the language already covered that issue. He said the amendment was redundant language, and there had been ample statements requesting that the Bill not be amended.

CHAIRMAN TVEIT clarified that Section 1 referred to the State Energy Policy and explained that SENATOR JABS was proposing to amend the Alternative Fuels Policy.

Vote:

SENATOR JABS' MOTION TO AMEND SB 251 ON PAGE 2, LINE 21 BY INSERTING "AND ECONOMIC" AFTER "ENVIRONMENTAL", AMENDMENT NUMBER SB025101.ACE (EXHIBIT # 4A), CARRIED 6-3 WITH SENATORS SWYSGOOD, STANG, AND JERGESON VOTING NO.

Motion/Vote:

SENATOR SWYSGOOD'S MOTION THAT SB 251 DO PASS AS AMENDED CARRIED 6-3 WITH SENATORS HOLDEN, NELSON, AND TVEIT VOTING NO.

EXECUTIVE ACTION ON SB 183

Motion/Vote:

SENATOR COLE'S MOTION TO RECONSIDER ACTION ON SB 183 FAILED 4-5 ON ROLL CALL VOTE #5.

SENATORS COLE, STANG, JERGESON, AND JABS VOTED YES.

SENATORS TVEIT, SWYSGOOD, HOLDEN, NELSON, AND MOHL VOTED NO.

Discussion:

CHAIRMAN TVEIT said there was an interest to have the Committee reconsider its action on SB 86. He stated the Bill dealt with the electronic transfer of funds and the Committee had objected to the transfer being mandatory. He explained that proponents of the Bill had prepared an amendment to make the transfer voluntary, if the Committee were to reconsider action.

SENATOR SWYSGOOD asked if the transfers couldn't already be made without the Bill? Pat Saindon, Montana Department of Transportation, stated she was familiar with the Bill but was not sure of the specifics sought.

A brief discussion followed with the determination that a brief meeting could be called, if deemed necessary, when the purpose of the amendment was determined.

EXECUTIVE ACTION ON SB 355

Discussion:

CHAIRMAN TVEIT stated there were several pieces of testimony which had been brought for submission to the record. (EXHIBITS # 5-8) were distributed to Committee members.

Motion:

SENATOR STANG MOVED TO ADOPT AMENDMENT SB035502.ACE, EXHIBIT # 9.

Discussion:

SENATOR STANG explained there were a number of people concerned that there may be some less than honest Highway Patrolmen who may not implement the rotation fairly. He said the amendment would allow a tow truck operator to examine the log books of the Montana Highway Patrol. He stated that the amendment would relieve the Highway Patrolmen of the burden of proof.

Vote:

SENATOR STANG'S MOTION TO ADOPT AMENDMENT SB035502.ACE CARRIED UNANIMOUSLY.

Discussion:

Connie Erickson referred to EXHIBIT # 10, Amendments SB035501.ACE. She explained that Dean Roberts, the Administrator of the Motor Vehicles Division of the Department of Justice, had testified that new language on page 7, lines 16-18, referring to the abandoned vehicle and presumption of ownership, was redundant. Ms. Erickson reminded the Committee that he had suggested striking the language, as a filing process was currently in place.

Motion/Vote:

SENATOR NELSON'S MOTION TO ADOPT AMENDMENT SB035501.ACE CARRIED UNANIMOUSLY.

Discussion:

SENATOR HOLDEN referred to page 5, Section 7, line 5, and asked if tow trucks were currently inspected in some way? **Mr. Gilbert** stated that under the commercial vehicle inspection law only vehicles over 26,000 pounds GVW were currently inspected. He stated that SB 355 would lower the threshold to 10,000 pounds GVW for tow trucks only.

SENATOR HOLDEN referred to line 15, page 5, regarding the fees for inspections, and asked how the Department would determine the actual costs of the inspection? **Mr. Gilbert** replied the Department did not intend to charge for the service, but if at some point the Department needed to charge, they would be limited to the actual cost of the inspection.

Motion:

SENATOR HOLDEN MOVED TO AMEND SB 355 ON PAGE 4, BY STRIKING LINE 29 IN ITS ENTIRETY.

Discussion:

CHAIRMAN TVEIT asked **Mr. Gilbert** for his comments on the amendment. **Mr. Gilbert** stated striking line 29 would put the State of Montana in a liable position. He explained the language applied to abandoned or wrecked vehicles which no one had control over and which the State requested a tow to deliver to a safe storage area. He felt that striking the language would create a liability problem for both the State and the tow. He said the language only applied to tow truck operators on the law enforcement rotation system.

SENATOR HOLDEN asked where the Bill stated only operators on the law enforcement rotation system were required to have a secure yard? **Ms. Erickson** referred to page 3, Section 4, Subsection (2) which read "A commercial tow truck operator may not participate in the law enforcement rotation system provided for...unless the operator complies with the provisions of Section 6 and 7". She affirmed that only tow trucks on the law enforcement rotation system have to comply with the storage and liability insurance requirements. She recommended that Section 6 should be clarified to read "a qualified tow truck operator" instead of "a commercial tow truck operator".

SENATOR HOLDEN asked for clarification that only tow truck operators on the rotational system would have to comply with the requirements and maintain a secured yard. He said he personally did not want to pass legislation requiring tow truck operators from small towns to have to invest money in a secured yard or building. **Mr. Gilbert** explained that in many isolated areas there may not be a rotational system and in cases where there was only one operator in the area the Highway Patrol would naturally call on that operator. He said that situation may solve the question of needing a secured yard. **Colonel Reap** agreed that was correct and added that if the operator did not have a secured area arrangements would have to be made to allow the operator to rent a stall or something to secure the safety of the vehicle. He said the instance seldom arose in the isolated areas and was applicable in a town with several towers. He said the Patrol had also found many smaller towers shared storage facilities.

SENATOR JERGESON suggested language on page 4, line 27, Subsection (2), should be changed by striking "commercial" and inserting "qualified".

SENATOR MOHL said that changing the language would not change the liability.

CHAIRMAN TVEIT referred to page 3, Section 4, "A commercial tow truck operator may not operate for compensation upon a public roadway unless the operator complies with the provisions in Sections 6 and 7", and those Sections dealt with the liability and inspection. He asked if it was correct that any commercial tower who was within the liability compliance requirements would have to have a lot or building? **Colonel Reap** said that was correct. **SENATOR HOLDEN** said insurance was sold to operators without fenced lots on a regular basis. **Colonel Reap** explained the Department's concern regarded situations where a vehicle was confiscated in a drug arrest or involved in an alcohol related accident. He said that in these situations the State would be assuming some liability. He said it was not a common happening, but the provision must be present for those cases in which it did occur.

SENATOR HOLDEN WITHDREW HIS MOTION.

SENATOR SWYSGOOD said he wondered if any part of SB 355 could be construed as some type of regulation. **Ms. Erickson** said that about the only real regulation was that commercial tow truck operators not on a rotation system were required to have liability insurance and a safety inspection. She said that operators on rotation were required to have liability insurance, meet storage requirements, have their equipment classified and have an annual safety inspection.

SENATOR SWYSGOOD stated that the federal deregulation of the motor carrier industry law said that "A State or political subdivision of a State may not enact or enforce a law, regulation

or other provision having the force and effect of law related to the price, route or service of those motor carriers with respect to transportation of property". He said there could be some question that the State could not enact SB 355.

SENATOR HOLDEN stated SB 355 was government regulation but the industry had requested it.

SENATOR SWYSGOOD said it didn't matter whether or not an industry requested. He explained that if SB 355 constituted the regulation of an industry of a carrier of property, the State was preempted from enactment by federal law. **Mr. Gilbert** stated that the federal deregulation law "preserved the rights of States to continue to regulate in matters of safety, size and weight, transportation of hazardous cargo, and minimum insurance requirements". He contended the only section of SB 355 that may not fall under the exception would be the fenced yard requirement which was for the protection of the State of Montana.

SENATOR SWYSGOOD said that the federal law stated the safety requirements could not be so restrictive as to amount to a "backdoor" economic regulation. He wondered if SB 355's requirement of weight classes, rotations, etc may be considered too restrictive.

SENATOR HOLDEN said he agreed with **SENATOR SWYSGOOD** and wondered if the Legislature would have to repeal the statute in two years.

SENATOR SWYSGOOD stated he was not sure but he guessed the statute would probably stand.

Ms. Erickson recommended that if the Committee chose to pass the Bill, it should be amended to clarify the storage requirement for tow truck operators on rotation.

Motion:

SENATOR NELSON MOVED SB 355 DO PASS AS AMENDED.

Motion/Vote:

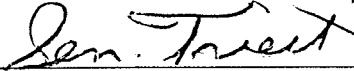
SENATOR HOLDEN'S SUBSTITUTE MOTION TO ADOPT AMENDMENTS CLARIFYING THAT THE STORAGE REQUIREMENTS APPLY ONLY TO THOSE TOW TRUCK OPERATORS THAT WANT TO BE ON THE ROTATION SYSTEM CARRIED UNANIMOUSLY.

Motion/Vote:

SENATOR NELSON'S MOTION THAT SB 355 DO PASS AS AMENDED CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: CHAIRMAN LARRY TVEIT adjourned the meeting at 10:05
p.m.



SENATOR LARRY TVEIT, Chairman



Carla Turk, Secretary

LJT/cmt

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
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 17, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration SB 281 (first reading copy -- white), respectfully report that SB 281 do pass.

Signed: Sen. Tveit
Senator Larry Tveit, Chair

 Amd. Coord.
 Sec. of Senate

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 17, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration SB 283 (first reading copy -- white), respectfully report that SB 283 do pass.

Signed: Sen. Tveit
Senator Larry Tveit, Chair

 Amd. Coord.
~~SA~~ Sec. of Senate

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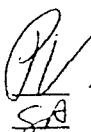
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 17, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration SB 321 (first reading copy -- white), respectfully report that SB 321 do pass.

Signed: Sen. Tveit
Senator Larry Tveit, Chair

 Amd. Coord.
SA Sec. of Senate

411239SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 17, 1995

MR. PRESIDENT:


We, your committee on Highways and Transportation having had under consideration SB 251 (first reading copy -- white), respectfully report that SB 251 be amended as follows and as so amended do pass.

Signed: *Sen. Tveit*
Senator Larry Tveit, Chair

That such amendments read:

1. Page 2, line 21.
Following: "environmental"
Insert: "and economic"

-END-


Amd. Coord.
Sec. of Senate

411304SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 17, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration SB 355 (first reading copy -- white), respectfully report that SB 355 be amended as follows and as so amended do pass.

Signed: Sen Tveit
Senator Larry Tveit, Chair

That such amendments read:

1. Page 3, line 7.

Following: "6"

Insert: "(1)"

2. Page 4, line 27.

Strike: "commercial".

Insert: "qualified"

3. Page 6, line 9.

Following: "system."

Insert: "A qualified tow truck operator may examine the rotation system schedule established by the department in order to determine if the system is being administered in an equitable manner."

4. Page 7, line 16.

Strike: "filing of a record of a sale or a transfer of the motor vehicle or the"

-END-



Amd. Coord.
Sec. of Senate

411246SC.SPV

DATE 2/16/95 BILL NO. SB 315 NUMBER 1
MOTION: Cole move SB 031502. ACF

SEN:1995
wp:rlclvote.man
CS-11

MONTANA SENATE
1995 LEGISLATURE
HIGHWAYS AND TRANSPORTATION COMMITTEE
ROLL CALL VOTE

DATE 2/16/95 BILL NO. SB 315 NUMBER 2

MOTION: Senator Stang Moved to Table SB 315

NAME	AYE	NO
LARRY TVEIT, CHAIRMAN	X	
CHUCK SWYSGOOD, VICE CHAIRMAN	X	
RIC HOLDEN		X
LINDA NELSON	X	
MACK COLE		X
BARRY "SPOOK" STANG	X	
ARNIE MOHL		X
GREG JERGESON	X	
REINY JABS	X	

MONTANA SENATE
1995 LEGISLATURE
HIGHWAYS AND TRANSPORTATION COMMITTEE
ROLL CALL VOTE

DATE 2/16/95 BILL NO. SB 321 NUMBER #3

MOTION: Senator Jergeson moved to Amend
by striking "15/28" & inserting "2/16".

NAME	AYE	NO
LARRY TVEIT, CHAIRMAN		X
CHUCK SWYSGOOD, VICE CHAIRMAN		X
RIC HOLDEN		X
LINDA NELSON	X	
MACK COLE		X
BARRY "SPOOK" STANG		X
ARNIE MOHL		X
GREG JERGESON	X	
REINY JABS		X

SEN:1995
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CS-11

DATE 2/16 BILL NO. 5B 251 NUMBER H 14

[illegible]

SEN:1995
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CS-11

We at Karst Stage would like to share a minute of your time to present our views on SB315 currently before the Senate Transportation committee.

Our information concerning the inception of this bill is limited but we consider the author and co-sponsor's intent to be honorable and fair, given the information that was at their disposal at the writing of this bill. It is very apparent from our view point that the total effect of this bill state wide was not considered. Karst Stage would like to address the following issues from our position and concern.

Our concerns:

1. Designed special interest legislation: This bill would allow a protected position for the resort industry and a regulated position to the transportation industry when the resort industry cannot or opt not to provide such services. The constituent request for this legislation has had every conceivable option to take this issue before the appropriate agency for proper public input, public hearing and decision making process. It is our view that there is movement to make this an issue, to legislate unfair competition rather than follow the regulatory path that the transportation industry in Montana currently subscribes to. Given the current perceived mood of less government it would be easy to confuse this bill with that mood when in reality the two issues are at opposite extremes.

2. Why do you have to exempt a special provider of services to perform in another area of service that is currently in full operation and fiscally viable. If the hotel-motel business elects to open business in the transportation industry there is nothing stopping them from doing so at present. The question remains, why the exemption request?

3. Out of state interests that are invested in Montana businesses and want to push their agenda through legislation with out consideration to current public review and regulatory systems that are in place needs to be stopped. Their gain is not in the best interest of those businesses that willingly subscribe to the laws of Montana to operate and make a profit.

4. The window of operations already exists for this group to operate in their industry format. If they want to become true transportation companies the window is open and they need to follow those rules or laws that govern that industry. I use Big Sky Ski Resort as a premier example of an astute business group who had the foresight to follow the laws of the transportation industry to obtain the necessary PSC permits to provide their transportation if the needs arises. They depend heavily on transportation providers in Gallatin and Madison counties in their transportation needs but they followed the laws to also become part of the transportation industry which we all condone.

5. Let the constituent who requested this bill start his own transportation company with out the protection of this legislation. I sure they will find many answers to questions they are now trying to over come with this exemption. The passage of this bill would legislate unfair competition against those who have lived by the laws of this state to build a safe, well equiped and profitable business in a very competitive, rural environment.

6. Safety, equipment, licensed commercial drivers (CDL), hours of service, annual inspections(state and DOT) , certified training of drivers, drug and alcohol testing and proper and adequate insurance liability limits are just a few of the items not addressed in this piece of legislation. These are the gold of any transportation operation to insure to the travelling public (your voters) that they have a legislator that will insure that the laws that uphold their right to safe travel will not be exempted.

Karst Stage takes the position that this bill needs further review and serves no purpose to help current business in the transportation industry survive in a very competitive and regulated environment. Please remember that if there is no margin there is no mission.

Thank you for your time
Respectfully,

Gary W. Gullickson
Sales Manager

SENATE HIGHWAYS

EXHIBIT NO. 2

DATE 2/16/95

BILL NO. SB 315

Amendments to Senate Bill No. 315
First Reading Copy

Requested by Senator Stang
For the Senate Committee on Highways and Transportation

Prepared by Connie Erickson
February 16, 1995

1. Page 2, line 29.

Following: "facility"

Insert: "in a city, town, or village with a population of less
than 2,500 persons according to the latest United States
census"

Amendments to Senate Bill No. 315
First Reading Copy

Requested by Senator Cole
For the Senate Committee on Highways and Transportation

Prepared by Connie Erickson
February 16, 1995

1. Page 2, line 29.

Following: "facility"

Insert: "in a city, town, or village with a population of less
than 7,500 persons according to the latest United States
census"

Main Points in opposition of SB 321

1) There are lots of basic service uses for tax money that are more fiscally conservative

- Roads and bridges (Plus get 7x federal match!)
- Prison guards- Could hire 8 or 9 full time guards with the increase alone
- Schools/Health Care/Children
- Give the money back to taxpayers! Decrease the tax.

2) BBER Study is based on voodoo economics;

- Assumes 54,000 snowmobiles; Only 18,572 are registered
- Assumes each of the mythical 54,000 snowmobiles is run a full day for fourteen days each year. Numbers from self-selected group; avid snowmobilers more likely to answer survey.

3) Earmarking gas tax to snowmobiles is wrong

- No earmarking with lots of taxes; gambling, personal property, real estate, income.
- Earmarking only makes sense when someone is taxed unfairly
- Snowmobiles are a luxury item and are not taxed unfairly.

4) Gasoline is used in several non-highway uses w/o earmarking

- Lawnmowers
- Gas powered snow-blowers and leaf blowers

5) SB 321 IS:

- a Fifty percent increase in tax money spent on snowmobiles
- a \$226,000 decrease in money available for our highways and bridges every year
- insufficient in law enforcement, safety, and weed control. Each of these uses should be on equal footing with trail building in this bill. 25% each!
- based on faulty assumptions about snowmobile use.

Summary;

Nothing wrong with snowmobiling per se, but it is a luxury as far as spending our hard earned tax dollars. We have higher priorities; roads, schools, prisons, health care, etc. Let snowmobilers pay their own way.

Michael Grayson
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SG3-7035

Amendments to Senate Bill No. 251
First Reading Copy

For the Senate Committee on Highways and Transportation

Prepared by Connie Erickson
February 17, 1995

1. Page 2, line 21.
Following: "environmental"
Insert: "and economic"



Interstate Deregulation & the Tow Truck Industry

More Questions Than Answers

On January 1, 1995, Title VI of the Federal Aviation Administration Authorization Act of 1994 became effective in all states except Hawaii. Title VI of the law amends the Interstate Commerce Act, providing in part as follows:

[A] State [or] political subdivision of a State.... may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier.... with respect to the transportation of property.

In one fell swoop, Congress has mandated deregulation of the economic activities of intrastate motor carriers of property. Although specifically forbidding regulation of the "price, route or service" of a motor carrier of property by a state or local government entity, the law preserves the right of states to continue to regulate in matters of "safety," size and weight, transportation of hazardous cargo and minimum insurance requirements.

How will deregulation impact the towing industry?

At this time there are many more questions than answers. However, this much is certain:

1. A state government or state agency may no longer require a towing firm to obtain an operating permit or certificate of authority based on public need and necessity. As noted above, states may continue to enforce compliance with "safety" regulations and a certificate of compliance, or fitness, may

be required, but those safety requirements cannot be so restrictive as to amount to "backdoor" economic regulation. (Those towing companies that currently hold state operating authority will be able to claim tax write-offs for the asset value of those operating rights.)

2. A local or municipal government can no longer require that a towing firm obtain an operating permit or certificate of authority based on public need and necessity. "Local government" was excluded from the provision of the law granting "states" continuing regulatory authority over safety regulations, therefore *any* regulation of the towing industry by local governments - even in matters of safety - is suspect in light of the new federal law.

3. State-wide tariffs are eliminated.

But many questions remain:

What did Congress mean when they said that state and local governments cannot regulate in matters pertaining to "price?" Certainly states and local governments can no longer control prices for towing services provided to commercial accounts or for non-emergency consumer calls, but what about the regulation of rates when emergency towing services are rendered at the behest of a government entity pursuant to a noncompulsory dispatch program such as a rotation list? If the government unilaterally sets those rates by statute, ordinance or rotation list rules - not through competitive

contracting - is that an unlawful regulation of "price" forbidden by the new federal law or is it simply a case of a willing buyer and a willing service provider?

What is included in the term "service?" Can state and local governments continue to regulate hours of operation of storage yards? require mandatory check and credit card acceptance? require posting of rates? prohibit wreck chasing? require posting of signs on private property before tow-aways?

Litigation will inevitably resolve many of these questions. Whether or not a state or local regulation will be upheld or struck down under the new law will depend on the exact language and scope of the particular regulation. Additionally, late in the last session of Congress several "emergency" amendments that were submitted in both the House and Senate to exempt the towing industry from the provisions of the FAA Authorization Act and, in effect, "re-regulate" the towing industry failed to pass. However, it is anticipated that the 104th Congress may take another look at deregulation and the tow truck industry. Stay tuned.

Michael McGovern is an attorney whose national law practice is concentrated in matters relating to the automotive towing industry. He also serves as legislative/regulatory counsel to the national tow truck association, TRAA. He can be reached at (615) 523-9191.

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OPPOSED TO S B 355

SENATE HIGHWAYS
EXHIBIT NO. 6
DATE 2/16/95
BILL NO. SB 355

This same bill was INTRODUCED in the 51st Legislature under S B 316. It was Killed in Committee with Several tow Operators Opposing it. S B 355 is Almost Same as 51st S B 316.

The Trucking Industry is being DeRegulated.

Now you want to Regulate Tow Trucks !

A Modification

Can no longer be made after October 1, 1995.
Wouldn't changing lights or Replacing a Cable be considered a Modification.

"THIS BILL" will create more Government At A Time when everyone wants to Reduce Government Costs and get Government out of our Private Lives.

Henry E. Lohr.

Page 2 - Line - 6 - 8 Section - 2

Will this create a duty of State to provide towing vehicles even if no Private ones are Available?

Page 2 - Lines - 12 - 15

This Bill will Reduce Competition.

Page 2 - Lines - 16 - 20

Why should the tower not be Responsible for his Ordinary Negligence like every one else? He is in the business of Providing this type of Service for a Fee. He is not a good Samaritan Responding to an emergency.

Page 3 - Lines 18 - 20 Section - 5

What is a medium sized truck or trailer? When does a medium sized truck or trailer become a large truck or trailer?

1. Are the classifications found on page 3 - 4 based upon Anything or Are the Standard Arbitrary?

2. Would a medium size trailer which was heavily loaded become a large trailer and a large trailer that was empty become a "Medium" Trailer ?

Page 3 Lines 23 - 24

No Definition - Rollbacks - and car carries.

Page 3 Lines - 27 - 30

Who decides what class of Tower is to be Called.

Page 4 Lines - 3 - 4

[Once the Equipment is classified - Further Modification may - not - be - Made.]

-----What does this Mean?---

Would changing of lights or Replacing a Cable be Considered a Modification?

Page 4 Line - 6

This means that a person would have to Join a private Assn. to be a Board Member. (If he could even get Elected?)

Page 4 Line - 24 - 25

In what Amounts?

Henry E. Zuhra

Page 5 Lines - 18 - 23 Section 8
More Government and Rules and Regulations.

Page 5 Line - 28 - 29

Will the State be Subject to Suit if the Officer calls out a different Tow Truck and the Operator is Negligent?

Page 6 Lines - 13 - 15 Section -9

Can a city or county use a towing company that is outside the city or county as part of rotation system.

Page 7 Line - 12 - 18

This section is solely to Protect the towing company which Already has a lien on the Vehicle.

Page 7 Line 16 - 17

What about situation where the owner does not know that his car has been stolen until after it has been abandoned.

This could easily happen if the car was stolen at night or while the owner was at work or on vacation.

"THIS BILL" will create more Government At A Time when everyone wants to Reduce Government Costs and get Government out of our Private Lives.

SENATE BILL 355

Henry E. Lohr.

ADDITIONAL COMMENTS AND THOUGHTS.

1. This act is going to create more Government.
2. How much is it going to cost to enforce the Act?
3. How much will it cost for the Department of Justice to prepare the Rules to Implement the classification, certification and use provisions of Act.
4. Will the State be liable for damages if it certifies a Towing Company that is Negligent or one that turns out to not Actually be qualified.
5. Will the State be Liable for damages if it certifies a Company that is qualified but the operator who shows up is a new employee who has not been fully trained. Will the Officer be Required to find out if the operator is fully trained, or that the equipment is in proper operating condition, before he allows the operator to start working?
6. Will the State be Liable for Damages if the Officer calls for a Class B Tower when he should have called for Class C Tower.
7. This Act seems to Require the State to be involved in the Actual Recovery and towing of vehicles, especially when Class D and E equipment is called for. Will the Highway Patrol Officers be properly trained to ensure that the right equipment is called for AND ACTUALLY USED? To protect himself, the Officer will probably Call for Larger equipment than is necessary, which will probably Limit The Number Towers Available and Reduce Competition.
8. This Act would Result in many AREAS of Montana having no Towing Companies AVAILABLE. The small guy could Not Afford to buy commercially manufactured equipment. Even if he could rebuild A Vehicle to meet the Classifications, he could not get it Licensed. This could Result in more hazards Waiting for a Licensed Towing Unit that might have to come Hundreds of miles Away. Competition will be reduced and cost will increase.
9. Since this Bill Regulates Who Can be in the Towing Business, should it Also Rrgulate the Fees charged by such Companies? Otherwise the Public will have to PAY Whatever FEES the Tower wants to Charge, with no Right ot Shop AROUND for a lesser Charge.

Henry E. Lohr

EXHIBIT NO.

DATE

BILL NO.

1st Legislature

LC 0650/01

LC 0650/01

INTRODUCED BY

BILL NO. 316

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ESTABLISHMENT OF A LAW ENFORCEMENT ROTATION SYSTEM FOR UTILIZATION OF EMERGENCY TOW TRUCKS; REQUIRING CLASSIFICATION OF AND LIABILITY INSURANCE FOR EMERGENCY TOW TRUCKS; AND AMENDING SECTIONS 61-1-120 AND 61-9-416, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because it requires the department of justice to make rules to implement the provisions allowing establishment of a law enforcement rotation system for the designation and use of qualified commercial tow truck companies that request to participate in the system. It is the intent of the legislature that the department of justice consult with the department of highways and consider its recommendations in establishing the rules. The rules should allow for fair consideration of all qualified tow truck companies by an officer who is summoning assistance, but priority should be given to the qualified tow truck company whose base of operations is closest to the emergency site.

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

NEW SECTION. Section 1. Short title. [This act] may be cited as the "Montana Emergency Tow Truck Act".

NEW SECTION. Section 2. Purpose. The legislature recognizes that:

(1) wrecked, disabled, and abandoned motor vehicles on the public highways create hazards that imperil lives and property and require expeditious removal;

(2) officers investigating accidents on the public highways need immediately available towing vehicles manned by competent operators and adequately equipped to clear the highways and remove hazardous obstructions with minimum damage to property;

(3) certain standards and classifications, including minimum standards for emergency tow truck companies based on intended use, are needed for emergency tow trucks and equipment used for towing and recovering wrecked, disabled, or abandoned motor vehicles or other objects creating hazards on the public highways; and

(4) encouragement of a competitive and qualified emergency towing industry requires establishment of a uniform and equitable statewide rotation system based on the classification of equipment and the standards provided in [this act].

NEW SECTION. Section 3. Classification standards for emergency tow truck equipment. (1) The highway patrol and

1 the department of highways each year shall classify the tow
 2 truck equipment of those commercial tow truck companies that
 3 apply in writing to be placed on a rotation system
 4 established under the provisions of [section 8 or 9] in
 5 accordance with the following standards:

6 (a) for class A, which includes vehicles used for the
 7 towing and recovery of passenger cars, pickup trucks, small
 8 trailers, and other comparable units, the tow truck
 9 equipment must have a manufacturer's rating of not less than
 10 4 tons and must be mounted on a truck chassis with a
 11 manufacturer's capacity of 8,000 pounds gross vehicle weight
 12 or more;

13 (b) for class B, which includes vehicles used for the
 14 towing and recovery of medium-sized trucks, trailers, and
 15 other comparable units, the tow truck equipment must have a
 16 manufacturer's rating of not less than 8 tons and must be
 17 mounted on a truck chassis with a manufacturer's capacity of
 18 18,000 pounds gross vehicle weight or more;

19 (c) for class C, which includes vehicles used for the
 20 towing and recovery of large trucks, road tractors and
 21 trailers, and other comparable units, the tow truck
 22 equipment must have a manufacturer's rating of not less than
 23 16 tons and must be mounted on a chassis that has a minimum
 24 manufacturer's capacity of 30,000 pounds gross vehicle
 25 weight or more;

1 (d) for class D, which includes manufactured rollbacks
 2 and car carriers that are designed for hauling and for the
 3 towing of wrecked or disabled vehicles, the rollbacks and
 4 car carriers must be mounted on trucks that have the minimum
 5 gross vehicle weight ratings of the manufacturer of the
 6 rollbacks and car carriers, which range from 10,000 pounds
 7 to 32,000 pounds gross vehicle weight.

8 (2) The manufacturer's rating is the basis for the
 9 classification under subsection (1).

10 (3) (a) Before October 1, 1991, the owner or operator
 11 of emergency tow truck equipment may use noncommercially
 12 manufactured or modified equipment in a law enforcement
 13 rotation system established under [section 8 or 9] if he
 14 establishes a basis for classifying the equipment in
 15 accordance with subsection (1).

16 (b) After October 1, 1991, only tow truck equipment
 17 commercially manufactured or commercially modified may be
 18 used in a law enforcement rotation system established under
 19 [section 8 or 9].

20 (4) All tow truck equipment used in a law enforcement
 21 rotation system must:

22 (a) be used and operated in accordance with the
 23 manufacturer's ratings;

24 (b) comply with the provisions of 61-9-416; and

25 (c) use a safety chain to secure a towed vehicle to

1 the emergency vehicle.

2 (5) The highway patrol shall cooperate with the
3 department of highways to assure minimum duplication and
4 maximum coordination of enforcement efforts.

5 NEW SECTION. Section 4. Liability insurance and
6 adequate storage required. Notwithstanding the provisions of
7 61-6-301, a commercial tow truck company, as a requirement
8 to be designated or to remain designated in a law
9 enforcement rotation system established under the provisions
10 of [section 8 or 9], shall provide:

11 (1) liability insurance for bodily injury or death or
12 damage to property caused by the maintenance or use of a
13 commercial tow truck as defined in 61-9-416 in an amount not
14 less than \$750,000 and shall continuously provide liability
15 insurance for loss of or damage to property entrusted to the
16 tow truck company in an amount not less than \$750,000; and
17 (2) a lot or building that is adequate for secure
18 storage and safekeeping of towed vehicles and for prevention
19 of vandalism to the vehicles and their contents. The storage
20 facility must be:

21 (a) located in close proximity to the towing service;
22 (b) secured by a fence or natural barrier sufficient
23 to deter trespassing or vandalism;
24 (c) staffed or available for access between 8 a.m. and
25 5 p.m., Monday through Friday, excluding legal holidays; and

1 (d) large enough to accommodate all vehicles towed by
2 the towing service for law enforcement agencies.

3 NEW SECTION. Section 5. Inspection -- compliance --
4 decal. The highway patrol or employees of the department of
5 highways appointed under 61-12-201, at least once each year
6 or more frequently when the circumstances demand, shall:
7 (1) inspect the tow trucks and equipment of requesting
8 commercial tow truck companies for the purpose of
9 classification and verification of compliance with the
10 provisions of [section 3];

11 (2) require qualified emergency tow truck companies
12 and tow truck companies requesting status as emergency tow
13 truck companies to furnish proof of compliance with the
14 provisions of [section 4];

15 (3) after the satisfactory completion of the
16 requirements in subsections (1) and (2) and verification of
17 compliance, affix in a prominent location on the tow truck
18 equipment a decal showing the classification under [section
19 3] and the expiration date of the insurance coverage
20 required under [section 4]; and

21 (4) compile current lists of qualified emergency tow
22 truck companies, including the classification of their
23 equipment under [section 3] and the status of their
24 liability insurance required under [section 4].

25 NEW SECTION. Section 6. Violation -- penalty. An

1 owner or operator of a commercial tow truck who violates any
 2 provision of [this act] while designated in a law
 3 enforcement rotation system as provided in [section 8] is
 4 guilty of a misdemeanor and is subject to the penalty
 5 provided in 61-8-711.

6 NEW SECTION. Section 7. Enforcement. The highway
 7 patrol shall enforce the provisions of [this act].

8 NEW SECTION. Section 8. Law enforcement rotation
 9 system -- standards -- rules. The department of justice
 10 shall establish by rule an equitable rotation system among
 11 qualified emergency tow truck companies. The rotation
 12 system:

13 (1) must be administered by the highway patrol;

14 (2) must be based on the classification of equipment
 15 provided for in [section 3];

16 (3) must include only those companies and their
 17 equipment approved by the highway patrol or department of
 18 highways as provided in [sections 3 and 5]; and

19 (4) is not applicable when the owner or operator of a
 20 disabled vehicle or a vehicle obstructing a public highway
 21 requests a commercial tow truck company of his choice;
 22 however, in emergency situations the officer at the scene
 23 has the option to request the most readily available
 24 approved commercial tow truck equipment. If no qualified
 25 emergency tow truck company is reasonably available, the

1 officer may request any equipment available to remove the
 2 immediate hazard.

3 NEW SECTION. Section 9. Local government rotation
 4 system. To provide uniformity, a local government law
 5 enforcement rotation system must comply with the provisions
 6 of [this act] and with the standards and classification
 7 criteria established under the provisions of [this act].

8 NEW SECTION. Section 10. Inspections. (1) During
 9 January of each year or at a time determined by the highway
 10 patrol and the department of highways, an emergency tow
 11 truck company that has been placed at its request in a law
 12 enforcement rotation system as provided for in [section 8 or
 13 9] shall bring its tow truck equipment to a department of
 14 highways scale or other agreed location for inspection under
 15 [section 5].

16 (2) An emergency tow truck company that has requested
 17 and been placed in a law enforcement rotation system
 18 impliedly consents to reasonable inspection of its premises,
 19 vehicles, and equipment by the department of highways, the
 20 highway patrol, or a local government entity as is necessary
 21 to assure compliance with [this act].

22 Section 11. Section 61-1-120, MCA, is amended to read:
 23 "61-1-120. Emergency service vehicles. "Emergency
 24 service vehicles" means emergency service vehicles of state,
 25 county, or municipal departments, or public service

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1 vehicles, or commercial tow trucks, which by the nature of
2 their operation cause a vehicular traffic hazard; or
3 authorized tow cars."

4 **Section 12.** Section 61-9-416, MCA, is amended to read:

5 "61-9-416. Commercial tow car truck definition and
6 requirements. (1) Every commercial tow car used to tow a
7 vehicle--by--means--of--a--crane, hoist, towbar, towline, or
8 dotly-shaft--be "Commercial tow truck" means a motor vehicle
9 equipped with specialized equipment designed and intended
10 for towing or recovery of wrecked, disabled, or abandoned
11 vehicles or other objects creating a hazard on the public
12 highways and equipped with:

13 (a) equipped with and carry carrying not less than two
14 red flares or two red lanterns or two warning lights or
15 reflectors;--which reflectors--shall be of a type approved by
16 the department;

17 (b) equipped with at least two highway warning signs
18 of a uniform type prescribed by the department and shall be
19 so designed as to be visible both day and night. The
20 operator of a commercial tow car truck used for the purpose
21 of rendering assistance to other vehicles shall, when the
22 rendering of assistance necessitates the obstruction of any
23 portion of the roadway outside a business or residence
24 district, place a highway warning sign 200 feet in advance
25 of and 200 feet to the rear of the disabled vehicle, except

1 as otherwise provided in this section. When a motor vehicle
2 is disabled on the highway, such a tow car truck operator
3 called to render assistance during the hours of darkness
4 shall immediately upon arrival place warning signs upon the
5 highway as prescribed in this section and in addition
6 thereto shall place not less than one red flare, red
7 lantern, or warning light or reflector in close proximity to
8 each warning sign.

9 (c) equipped--with and carry carrying a fire
10 extinguisher of at least 2 quart capacity of a type capable
11 of extinguishing a fire;

12 (d) equipped with a lamp emitting a flashing or steady
13 red light mounted on top of the cab of the tow car truck or
14 on the top of the crane or hoist if such the light can be
15 seen from the front of the tow car truck. The light from
16 such the lamp must be visible for a distance of 1,000 feet
17 under normal atmospheric conditions; and shall be mounted in
18 such a manner that it can be securely fastened with the lens
19 of--the lamp facing the rear of the tow car upon which it is
20 mounted. When--standing--at--the--location--from which--the
21 disabled vehicle is to be towed, the operator of the tow car
22 may--unfasten--the--red--light--and place it in any position
23 deemed advisable--to--warn--approaching drivers. When--the
24 disabled--vehicle--is--ready--for--towing--the red light must be
25 turned--to--rear--of--the--tow--car--upon which it is mounted--and

1 ~~securely--locked-in-this-position--Additional-red-lights-of~~
 2 ~~an-approved-type-may-be-displayed-at-either-or-both-sides-of~~
 3 ~~the-tow-car-as-the-case-may-warrant--during--the--period--of~~
 4 ~~preparation--at-the-location-from-which-the-disabled-vehicle~~
 5 ~~is-to-be-towed; Amber flashing lights may be mounted on the~~
 6 ~~tow truck to warn other vehicles that a unit is in tow. The~~
 7 ~~amber flashing lights must be visible to approaching~~
 8 ~~vehicles and following vehicles for a distance of 1,000~~
 9 ~~feet.~~

10 (e) ~~equipped-with one or more brooms, and the operator~~
 11 ~~of the tow car truck engaged to remove a disabled vehicle~~
 12 ~~from the scene of an accident shall remove all glass and~~
 13 ~~debris deposited upon the roadway by the disabled vehicle~~
 14 ~~which is to be towed;~~

15 (f) ~~equipped-with and carry carrying a shovel, and~~
 16 ~~whenever practical the tow car truck operator engaged to~~
 17 ~~remove any disabled vehicle shall spread dirt upon that~~
 18 ~~portion of the roadway where oil or grease has been~~
 19 ~~deposited by such the disabled vehicle;~~

20 (g) ~~equipped---with and carry carrying a portable~~
 21 ~~electrical extension cord for use in displaying a light on~~
 22 ~~the rear of the disabled vehicle. The length of such the~~
 23 ~~extension cord shall may not be less than the length of the~~
 24 ~~combined vehicles, and whenever a disabled vehicle is towed~~
 25 ~~during the hours of darkness and the rear lamp or lamps on~~

1 the disabled vehicle cannot be lighted, the tow car truck
 2 operator shall ~~provide-for-such illuminate~~ the rear light by
 3 means of the extension cord herein-referred-to.
 4 (2) The owner or operator of a commercial tow car
 5 truck who complies with the requirements of this section may
 6 stop or park such the tow car truck upon a highway for the
 7 purpose of rendering assistance to a disabled vehicle,
 8 notwithstanding other provisions of this code."

9 NEW SECTION. Section 13. Extension of authority. Any
 10 existing authority to make rules on the subject of the
 11 provisions of [this act] is extended to the provisions of
 12 [this act].

13 NEW SECTION. Section 14. Codification instruction.
 14 [Sections 1 through 10] are intended to be codified as an
 15 integral part of Title 61, chapter 8, and the provisions of
 16 Title 61, chapter 8, apply to [sections 1 through 10].

-End-

Response to Opposition to S B 355

It is not almost the same as S B 316.

1. It adds Class E.
2. It "Grandfathers" currently used homemade equipment (Phased out in S B 316).
3. Liability insurance is @ 3 levels, Class A \$ 300,000, Class B \$ 500,000, Class C \$ 750,000. (S B 316 set all 3 classes at \$ 750,000).
4. Allows operators to be certified and inspect their own equipment (S B 316 only State did inspections).
5. S B 316 did not address abandoned vehicles.
6. S B 316 did not set up Insurance Filing.

This is not State Regulation by and for the State. This is the Industry asking for standards to be set for their own Industry to protect the safety of the traveling public.

Modification: No one would confuse maintenance or repair; changing a light bulb, replacing a cable, welding a crack, rebuilding a winch or hydraulic system or general repair as a modification.

"The Bill" does not create " GOVERNMENT".

It sets standards for the Industry that are being requested BY THE INDUSTRY, NOT BY THE GOVERNMENT, to address PUBLIC SAFETY and RESPONSIBLE OPERATION of the TOW TRUCK INDUSTRY.

Page 2 Lines 6-8

1. This only recognizes a need. There is no intent for the State to Operate Tow Trucks. Nor do they want to. Commerical Tow Trucks are and will be available.

Page 2 Lines 12-15

2. Sets up classes by size for identification by dispatchers and officers. Sets up a rotation system to ensure that Towers are treated equally.

Page 2 Lines 16-20

3. Qualified means being safety inspected yearly and covered by Liability Insurance to protect the public. No Tower would be able to handle a several hundred thousand dollar lawsuit without Insurance. No Professional Tower would be willing to take that risk. The Good Samaritan Clause covers passersby who may be called on to help in Life Threatening situations, not the Professional Tow Truck Operator.

Page 3 Lines 18-20

4. Very self explanatory - minimum of 18,000# up to 31,999# is Class B (medium).
I.E. @ 32,000# rating and over is Class C.

1. Based on National Rating Standards.

2. This is a silly question. A medium size trailer (Class B) that was too heavily loaded would be overweight and fined, this is current law. A large (Class C) trailer that was empty would still be a large (Class C) empty trailer.

Page 3 Lines 23-24

5. Would be either Class A, B, or C based on their G.V.W. rating.

Class A. 10,000# to 17,999#

Class B 18,000# to 31,999#

Class C 32,000# and over

Remember these classifications are for dispatcher and officer Identification and Insurance levels only.

Page 3 Lines 27-30

6. The Law enforcement officer. Most likely with the help of the owner or driver of the wrecked vehicle. "JUST COMMON SENSE".

Page 4 Lines 3-4

7. These are structural modifications that significantly change the lifting ability of the unit. (May need an amendment to state that modifications may be made if certified and rechecked as to classification). Again, lets not be trivial, changing a light bulb or cable is not a modification.

Page 4 Line 6

8. Could add a non member Tow Truck Operator or private citizen as an additional member.

Page 4 Lines 24-25

9. Best left to Tow Truck Operator and his or her Insurance Agent based on the value of the cargo they would normally handle.

Page 5 Lines 18-23

10. This is what is going on today by ancient rule. This puts it in the statute and sets the Standards. Good for the Tower and Good for the Public. This is GOOD BUSINESS AND GOOD GOVERNMENT.

Page 5 Lines 28-29

11. This will ensure in Statute that there will be NO favoritism played and that Towers are treated equally. If the Operator - or any Operator is negligent he will have to be responsible for his own actions. Just like now - only with this Bill he will be adequately Insured.

Page 6 Lines 13-15

12. Probably they would Not. However a Tow Truck Company on the edge of town could probably be in the system. Cost and distance would be prime consideration.
I. E. : Being too far away would cost the Public more dollars unnecessarily.

Page 7 Lines 12-18

13. It is to increase the probability that the Tower might be paid for their services.
Many are not now. Towing a vehicle in does not automatically constitute a lien. Not all Towers are Salvagers - they do not care to acquire that vehicle. They only want to be paid for Services requested by Law Enforcement.

Page 7 Lines 16-17

14. If the registered owner can provide evidence that they did not know the vehicle was stolen, in these isolated instances, they should be relieved of the responsibility.

This Bill is a Safety and Responsibility bill. It is not Government intrusion into our private lives. We serve the Public, like a Bus Company, a Power Company, or a Phone Company. Professional Towers have an obligation to the Public and are willing to acknowledge it.

Response to "Additional Comments and Thoughts"

1. This does not Create Government. It Sets Standards requested by the Industry.
2. There is no fiscal impact.
3. No more than any other piece of Legislation that requires rules.
4. The State does not "Certify" a Tow Truck Company. If the Company is not qualified they will not be on the rotation list. If they lie to get on the list they are liable and responsible not the State.
5. The State does not "Certify" an Operator. It is the responsibility of the Tow Truck Operator to train their employees. They are responsible, not the State. What do we do now? If the Company is qualified the State is not liable.
6. No. Same as today. A "common sense" call. Ongoing training as we have talked about will minimize this situation. No one is perfect, just human.
7. It would appear that the opponent to S B 355 does not understand the Bill or is just trying to confuse the issue. The State will Not be involved in the Actual Towing or recovery of vehicles and NO WHERE in the Bill is this stated.
8. This is a totally false statement. Most of the 1 truck operators have commercially manufactured equipment. It can be purchased new or used. Once homemade equipment has been "Grandfathered" and classified it can be sold to someone else and used as long as it passes the annual inspection. Availability of equipment will not decrease as a result of this Act.
9. This Bill sets simple and logical standards for those who want to be in the Tow Truck Business. The State has NEVER set the rates that Towers charge, as the opponent well knows and under Intrastate Deregulation, never will. Anyone can be a Tow Truck Operator by meeting a set of Standards that are designed to ensure Safety and Protect the Consumer.

The Handout on Deregulation has NO effect on Montana Towers. Montana has never regulated the rates that Towers charge and Montana has never assigned specific areas that Towers could operate in or routes they had to use. These are what have been deregulated.

However, States may still require Insurance Coverage and enforce Safety requirements. These are what this Bill addresses.

Amendments to Senate Bill No. 355
First Reading Copy

Requested by Senator Stang
For the Senate Committee on Highways and Transportation

Prepared by Connie Erickson
February 16, 1995

1. Page 6, line 9.

Following: "system."

Insert: "A commercial tow truck operator may examine the rotation system schedule established by the department in order to determine if the system is being administered in an equitable manner."

Amendments to Senate Bill No. 355
First Reading Copy

For the Senate Committee on Highways and Transportation

Prepared by Connie Erickson
February 13, 1995

1. Page 7, line 16.

Strike: "filing of a record of a sale or a transfer of the motor
vehicle or the"

DATE 2-16-95

SENATE COMMITTEE ON Highways

BILLS BEING HEARD TODAY: Exec Action Mtg 2

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Check One

Name	Representing	Bill No.	Support	Oppose
Ken Hovues Tol	MT. Snowmobile Assn.	321	✓	
John Sample	^{rust.} Helena Snodgrass	321	✓	
Bob Decker	MT Wilderness Assn	321		✓
Randall E. Johnson	Flathead-Glacier Trans.	315		✓
Arudi Hovden	Helena - Taxi	315		✓
Robin McHugh	Public Service Comm	315	—	—
T R FORSETH	MT Highway Comm	251-183		
Patricia Abelin	MT Highway Comm	251 183		
Pat Saindan	MDT	183	✓	
Wally Bell	MT Highway Comm	183	✓	
Bob B. White	MT Tow Truck Assn	355	X	
DAVE BROWN	MT. Car Rental Assn	315		X
Myron Mackay	MT. Tow Truck Assoc	355	X	
Bill Sparr	MT. Tow Trk Assn.	355	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-16-95

SENATE COMMITTEE ON Highways

BILLS BEING HEARD TODAY: Exec Action mtg 2

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Check One

Name	Representing	Bill No.	Support	Oppose
Daniel Allen	Maintenance Trucks	355	X	
Milo Casagrande	Mountain Tow Truck	355	X	
Craig Reap	MHP	355	X	
Bob Smith	DOJ	355		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY