

## MINUTES

### MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

#### CONFERENCE COMMITTEE ON SENATE BILL 044

Call to Order: By CHAIRMAN RIC HOLDEN, on April 17, 1997, at  
2:00 P.M., in ROOM 410.

#### ROLL CALL

##### Members Present:

Sen. Ric Holden (R)  
Sen. Bruce D. Crippen (R)  
Sen. Mike Halligan (D)  
Rep. Shiell Anderson (R)  
Rep. Jon Ellingson (D)  
Rep. Daniel W. McGee (R)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Services Division  
Mary Gay Wells, Committee Secretary

{Tape: 1; Side: A; Approx. Time Count: 2:04 PM; Comments: N/A.}

#### HEARING ON SB 44

##### Discussion and Questions From Committee Members and Responses:

CHAIRMAN RIC HOLDEN opened the Free Conference Committee on SB 44. The President of the Senate had asked the Chairman to get a Free Conference Committee together and address the issue and work on this due to time limitations of the Legislature. The President wanted the Committee to go over the House rejection of the amendments.

Mr. Bart Campbell said that there were four different proposed amendments.

CHAIRMAN HOLDEN numbered the amendments as follows: (EXHIBIT 1) is REP. JON ELLINGSON'S amendment. (EXHIBIT 2) is sb004408.abc. (EXHIBIT 3) is sb004407.abc. (EXHIBIT 4) is REP. SHEILL ANDERSON'S amendment. He then asked REP. DAN MCGEE to recapture the House Floor discussions that rejected the previous Conference Committee amendments.

**REP. DAN MCGEE** said that he wasn't there for the entire debate because he had to go to the Governor's office. His expression on the House Floor was that he would very much like to have a policy reflect what a person is in fact getting. He didn't care whether they were stacking or not stacking. He didn't care whether there was one premium or four premiums. All he was concerned about is that if he is paying premiums he needs to know what he is paying premiums for and what he receives if an accident occurs.

**CHAIRMAN HOLDEN** asked if one of these four amendments was drafted by him? **REP. MCGEE** said no.

**Mr. Campbell** explained that (**EXHIBIT 2**) came about after some discussions with both **REP. MCGEE AND REP. ANDERSON** and **John McMasters** who had staffed the committee that heard the bill. It was his attempt to combine all these concerns. (**EXHIBIT 3**) is the same but with one less sentence. Both amendments were requested by **REP. ANDERSON**. **Mr. Campbell** first spoke on (**EXHIBIT 3**). It keeps the original House amendments on page 1 lines 14 and 15. On page 2, lines 1 through 3, Subsection 3 is stricken and "A company shall clearly inform the insured that the insured is not entitled to add together insurance coverage limits in one policy or from more than one policy when the policy or policies are issued by one company" is inserted. This somewhat reflects the language on page 1, subsection 2, lines 29 and 30 where it talks about "to prevent the adding together of insurance coverage limits in one policy or from more than one policy issued by the same company". He then spoke on (**EXHIBIT 2**) and said that it adds a second sentence that addressed **REP. MCGEE'S** concerns about double payments. It states "Premiums that are subject to this section charged by a company must reflect the fact the coverages may not be added together". This, in effect, is saying that if people can't stack, that should affect the premium that is being paid.

**REP. MCGEE** said that he liked the beginning and what he is hearing is that it says that there will be no stacking and he is not so sure there shouldn't be stacking. He said he would like to work on some language that would address this more specifically.

**REP. JON ELLINGSON** explained his amendment. He first read the amendment. He said that if a person gets another policy for the second vehicle and the person pays underinsured and uninsured coverage for it, the person will not get anything additional for that. The amendment doesn't address one of **REP. MCGEE'S** concerns and that is if people do pay an additional premium they should be able to stack. That is a concept that he was not sure what his thoughts would be. But the purpose of this amendment is that, as the tenor of the House voiced, people ought to get what they think they are getting and they ought to be informed of what they are getting and shouldn't pay for things that they aren't getting.

**CHAIRMAN HOLDEN** asked if this is a notice provision that is being recommended? **REP. ELLINGSON** said that the way it has been drafted is that the policy would state that fact. How it is listed in the policy is not of great concern.

**REP. SHEILL ANDERSON** explained his proposed amendment (**EXHIBIT 4**). It is a notice that would be required of the insurance companies. This actually came from the insurance folks and the attempt of all these is the cover the same thing. He asked if someone else could explain this one.

**Greg Van Horssen, State Farm Insurance.** The amendment which has been numbered (**EXHIBIT 4**) is simply a response to what he believed he heard on the House Floor during the debate on SB 44. They understood that there was some real concern about the insured folks having noticed that, by passage of SB 44, stacking would no longer be allowed. Folks in State Farm, AIA, and others have put this notice together to meet some of those concerns via the amendment.

**CHAIRMAN HOLDEN** asked if this would be distributed as a notice with the premium renewals? **Mr. Van Horssen** said yes, that is correct and with the issuance of any new policy.

**REP. ELLINGSON** commented on this. He felt that it deals with part of the problem but not all of it. It does provide notice that the coverages will not be stacked. And that is a step in the right direction. But it doesn't deal with the situation where he is concerned and that is where consumers are paying more premiums than they have to pay. Here multiple coverages can't be added together. The question is why if there are multiple coverages and if they can't be added together then why is a person paying a multiple premium. You would be a fool if you have four vehicles to have four uninsured coverages when one is going to do the covering.

**SEN. BRUCE CRIPPEN** commented on the amendments. He reiterates again that when a policy is set out it reflects that when a person pays for vehicle A, vehicle B, etc. they are paying for that particular coverage dealing with that particular vehicle for that particular period of time. A person can get a commercial policy and have more than one building on the policy. It will have one premium for the whole thing but the underwriters break it down. Or they will list a specific premium for a specific piece of property. Although, albeit, it is all in one policy. Those are common types of policies when you are dealing with commercial buildings. You may have one unit like Rimrock Mall. This consists of several buildings. You don't have a policy usually on each building. If one of those buildings burn down and you have paid the premium, that doesn't mean you get the total coverage for the other buildings as well. The same thing is true if you have a liability policy added to it. He continues with several different types of examples. If a person wants more coverage there are umbrella type policies. The main point here

is to have people be truly aware of what they are paying for and what they will be receiving. Also, if it is not clear, trial lawyers look for what they can get away with. He feels that much of this has been brought about by them. There must be clear language either in a notice, in the body or when the premium notice comes out because that is when people look closely.

**CHAIRMAN HOLDEN** said that **(EXHIBIT 3)** indicates the House is concerned about some notice provisions be included.

**SEN. CRIPPEN** said that it needs to be kept in mind that the burden is being put on the insurer to give notice. This isn't new for State Farm because they deal in every state. They might be able to tell the committee what they do for different situations in different states.

**Mr. Van Horssen** stated that the reason they are in attendance is because of the stacking issue. He believed that at one point in time the insurer thought that the language was sufficient in the body of the document so as to put folks on notice that you can't stack your coverage limits. As it relates to this amendment and the concept that is floating around, he would suggest that it would be far more efficient to give the consumer that type of notice in a policy renewal document, on the declaration page, instead of having to go back and retool a nation-wide policy to fit a change in the law in Montana.

**SEN. CRIPPEN** said that was not quite the question. What he was talking about is the notice and which one of these amendments better reflect what State Farm would have in the body of their policy and still give the notice to the insured about their coverage.

**Mr. Van Horssen** stated that of the amendments that are in front of him, **(EXHIBIT 4)** OR **(EXHIBIT 3)** would best fit the concern that has been raised and the insurers' notice obligations based upon that concern.

**REP. ELLINGSON** said that he had spoken with his insurance agents. He has seen language concerning underinsured and uninsured motorists and there has been debate about what the language of the coverage might mean. He understands that if a person has three vehicles and the person purchases uninsured motorist coverage and it is pertinent to one vehicle, the other two vehicles are covered as well. **Mr. Ron Ashabraner**, said that is a correct assessment. **REP. ELLINGSON** said that his insurance agent sold him the coverage on the second and third vehicle, but it really wasn't necessary. So his next question is if the insurance companies are not going to stack the policies, what is a person getting for the premiums being paid on the second and third vehicles. **Mr. Ron Ashabraner** said that what you are about to get is 300% increase on your three cars. In other words, with the stacking as it is taking place right now. . . . **REP. ELLINGSON** interrupted and asked again what he would be getting

for the extra premiums. If one covered vehicle covers all three, why would he want to pay premiums for the other two vehicles.

**Mr. Ashabraner's** response was not clear on the tape.

**REP. ELLINGSON** said that the previous response really puts the finger on the concern. If the consumer is not getting something else for that second and third coverage, they should be made aware of that and (**EXHIBIT 3 AND EXHIBIT 4**) do not go far enough. He would like to go with (**EXHIBIT 2**) which talks about the fact that the "premiums are subject to this section charged by a company must reflect the fact that coverages may not be added together". This is what gets to the concern that was at the heart of the concern of the House.

**REP. MCGEE** said that he would like to offer a possible amendment. He reads the amendment.

*{Tape: 1; Side: A; Approx. Time Count: 2:26 PM; Comments: N/A.}*

**CHAIRMAN HOLDEN** felt that conceptually this might be workable. He then suggested that **Jacqueline Lenmark** work with **REP. MCGEE** and come up with workable language.

**Jacqueline Lenmark** said that as she listened to the reading it sounded like very good language and the question that she would raise is at the part talking about "coverage from policy to policy" that the committee may want to allow the company to clearly state that there may not be a coverage transfer from vehicle to vehicle. Sometimes a person has several vehicles or several insureds covered under one policy.

*{Tape: 1; Side: A; Approx. Time Count: 2:39 PM; Comments: AN 11 MINUTE RECESS WAS TAKEN TO ALLOW A NEW AMENDMENT TO BE WRITTEN.}*

**CHAIRMAN HOLDEN** brings the committee back to order. An amendment has been proposed (**EXHIBIT 5**) and it is essentially similar in structure to (**EXHIBIT 3**) with the exception that part three of that amendment would be rewritten with (**EXHIBIT 5**).

**Mr. Campbell** reads the proposed amendment insert. "An insurer that charges a premium for a specified coverage, must clearly inform and notify the insured of the limits of the coverage with respect to the premium charged, and whether or not the coverage from one policy or motor vehicle is transferrable to another motor vehicle or policy".

**SEN. CRIPPEN** questioned the words whether or not. Whether means both. So it was decided to strike "or not".

**Ms. Lenmark** agreed about the words "whether or not". The only other word that she would suggest is the word "transferrable" because what is really being talked about is the adding of coverages and that is the language that is used in the statute.

So when you get to the end she suggested that it read "whether the coverage from one policy or motor vehicle may not be added to the coverage of another policy or motor vehicle". **Mr. Campbell** suggested the word "not" being stricken. The suggestion was accepted.

**REP. ANDERSON** asked if it would be clearer if language said "the amount of recovery for one incident". It was decided that this language would not be clear enough.

**REP. MCGEE** said that he would like to see "inform or notify". This was agreeable.

**CHAIRMAN HOLDEN** said that (EXHIBIT 3) with the insert of (EXHIBIT 5) seemed to be the consensus of the committee. He then asked **Mr. Campbell** to read the entire (EXHIBIT 5) again with the new wording. It was then read. "An insurer that charges a premium for a specified coverage, shall clearly inform or notify the insured of the limits of the coverage with respect to the premium charged and whether the coverage from one policy or motor vehicle may be added to the coverage of another policy or motor vehicle".

**REP. MCGEE MOVED (EXHIBIT 3) WITH THE REWRITTEN INSERTION OF (EXHIBIT 5) ON PAGE 2, LINES 1 THROUGH 3.**

**SEN. MIKE HALLIGAN** requested the possibility of "in writing" be added. He felt that even if this were covered under another statute it would be good to have this language inserted. This was accepted by the committee. This was also agreeable to the insurance companies as this is normally the way they would do it anyway.

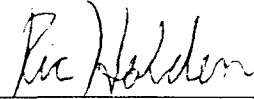
**REP. MCGEE MOVED TO ADD "IN WRITING" TO THE AMENDMENT (EXHIBIT 5).**

**REP. MCGEE** showed **Russell Hill, MT Trial Lawyers Assoc.** a copy of the insertion. **Mr. Hill** felt the language sounded good to him.

**THE MOTION TO ACCEPT THE AMENDMENT (EXHIBIT 3) WITH THE REWRITTEN INSERTION OF (EXHIBIT 5) AND THE ADDED WORDING OF "IN WRITING" CARRIED UNANIMOUSLY: 6-0**

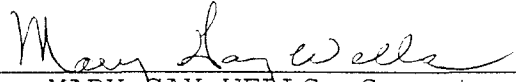
ADJOURNMENT

Adjournment: 2:50 P.M.



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SEN. RIC HOLDEN, Chairman



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MARY GAY WELLS, Secretary

RH/MGW