

## **MINUTES**

### **MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION**

#### **FREE CONFERENCE COMMITTEE ON SENATE BILL 085**

**Call to Order:** By **CHAIRMAN LARRY BAER**, on April 14, 1997, at 4:11 p.m., in Room 331.

#### **ROLL CALL**

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

Sen. Larry L. Baer (R)  
Sen. Bob DePratu (R)  
Sen. Greg Jergeson (D)  
Rep. Rick Jore (R)  
Rep. Dorothy C. Simpson (D)  
Rep. Jack Wells (R)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Leanne Kurtz, Legislative Services Division  
Angie Koehler, Secretary

#### **FREE CONFERENCE COMMITTEE ON SB 85**

##### **Amendments:**

**CHAIRMAN BAER:** There are some corrections that need to be made. I'll note those corrections on the green page so it won't be confusing to you when we get to those parts.

Amendment numbers 1-4 seem to be in order; number 5 should be modified to read page 21, line 1-5; number 6 should read page 23, line 12; number 7 should read page 23, line 15; number 8 is correct; number 9 should read page 32, line 2 and number 10 should read page 36, lines 12 and 14.

##### **Discussion:**

**SEN. GREG JERGESON:** When I presented the bill to the House Committee I was aware that number 1 was going to be offered and did not object to it at that time. I'm willing to accept it.

##### **Motion/Vote:**

**SEN. JERGESON:** MOTION TO ADOPT AMENDMENT NUMBER 1. MOTION CARRIES UNANIMOUSLY.

**Discussion and Questions from Committee Members and Responses:**

**SEN. JERGESON:** Amendment number 2 also relates to number 8. It is the condition of tires. I was not aware the House Committee was looking at that particular amendment. It came as something of a surprise to me. I argued, in our Subcommittee that we had in the Senate Highways and Transportation Committee, the importance of having standards for the condition of tires on our roads. I would be interested in the Committee not accepting this amendment, although I'm not going to hang the bill up over it.

**SEN. BOB DEPRATU:** My problem with reinstating it is all too often you can have a broken tire and not know it. We find it in the automobile business as we put vehicles up to service them. The customer never knows they have a cut tire until it's pointed out to them. A person could have a cut tire which would fall into that category and be fined for it.

**Leanne Kurtz:** I would like to clarify for the Committee that amendment number 2 is just the title so maybe the Committee would like to take number 2 and 8 together. In addition, number 1 that the Committee just adopted goes with number 5.

**SEN. JERGESON:** Respecting amendment 1, I would ask that also include the acceptance of the language in number 5. So that the title and the body of the bill amendments are together.

**CHAIRMAN BAER:** Are you making a motion?

**SEN. JERGESON:** I'm just asking that my motion that we adopted include both of those amendments.

**CHAIRMAN BAER:** Are you making a motion at this time or don't you think we should discuss?

**SEN. JERGESON:** I'm not making a motion at this time on items 2 and 8.

**Colonel Craig Reap, Chief of Highway Patrol:** The tire issue is something we felt we needed to address in this bill for a variety of reasons. **SEN. DEPRATU** brings up a good point in that a lot of times the operator of a vehicle doesn't know there is a problem with the tire. Sometimes those things are identified by the officer when they make a traffic stop. Just like any other mechanical violation, the odds are that the person who has this problem will not get a citation the first time this is brought to their attention. If there is any kind of mechanical violation on a vehicle, I would say in excess of 98 percent of the time the driver is given a warning only and many times it's simply a verbal warning. Sometimes there is a requirement to send a card back to prove the violation was corrected, but there isn't a citation issued. It's just a reminder. We understand that things can happen at any time and that's why we don't take that strict of enforcement action. Montana is the only state that

does not have a tire law. Many states have very strict tire laws that have state inspection programs. We don't have that, but even other states that don't have an inspection program do have some kind of guidelines. Right now we have very gray ideas about what a tire violation amounts to. This law would give the officers as well as the driver a better chance to determine what the violation is.

*{Tape: 1; Side: A; Approx. Time Count: 4:20 p.m.; Comments: .}*

**CHAIRMAN BAER:** I perceive a need here to look at the language and perhaps make some modifications that would alleviate the fears of those who think this might be too strictly enforced. There should be some exceptions and perhaps some exclusions of certain types of vehicles who use certain types of tires.

**SEN. DEPRATU:** When you get into some of the specialty type vehicles we have what we call street slicks. They don't have any tread showing or a wear bar type of thing. Those types of vehicles are normally shown in parades and are for local, fun type driving and those drivers know what they're driving with.

**REP. DOROTHY SIMPSON:** The only problem I have with this language is it says "worn tires". Worn tires is a very loose term. You might be able to interpret it so vaguely and there are people who buy used tires all the time and drive on them. If we could pin it down a little more I would be happy.

**REP. RICK JORE:** I supported amending that in the Committee and I appreciate your suggestion that maybe we could come up with some language that would maybe give an out as far as the enforcement. I'm not so sure I, personally, could support any language because it's very arbitrary. You've always got different situations like **SEN. DEPRATU** mentioned with the slicks and there are people who may keep an older tire for a spare that doesn't have the mandatory tread. I'm not convinced that language needs to be put in statute. I would like to leave that amendment as it is, out of the bill.

**REP. ROBERT CLARK, HD 8, RYEGATE:** We have to give the Highway Patrol and other law enforcement officers some credit for common sense. Regarding the language in this bill, the first time that someone is stopped for one of these violations has been a warning situation 99 and 9/10 percent of the time and all the time since I've been involved with the process and as a former Highway Patrol Officer, during my whole career. This is simply updating our equipment standards.

**CHAIRMAN BAER:** Is there anyone who came here today who has a particular concern over tires in any aspect of Section 32?

**Andy Skinner:** The problem is not with the Highway Patrol. They do an excellent job. Under health and safety, they have the authority to reject tires that are bad or give you a citation.

The problem comes with cities and counties and their arbitrary enactment of a lot of these laws. I know we currently have, on truck tires, a question about having to have so much tread. We have been cited before even though we try to watch it. You may take a truck out one day and say it comes in once a week to get serviced and in that week it may change from the point it was to where you get stopped and usually they give you a warning if it's the Highway Patrol. If it's the city or county and they're wanting to flex their muscle, they give you a ticket. That's the concern I would have as a contractor.

**REP. JACK WELLS:** Under the current law, can't your officers give a warning to a driver if they see tires they think are in pretty bad shape. Do we actually need something further in the statute?

**Colonel Reap:** They can. It's whether or not the owner or driver agrees with the officer's assessment. There is always that question that can come up. Also, if someone is wanting to reuse a tire or keep a tire on a vehicle, sometimes they'll ask us, is that tire okay or what are the standards for tires? We say, well, there are no standards but we can look at it and give you our opinion. This would also put you in compliance with other states if you're driving your vehicle from one state to another.

**CHAIRMAN BAER:** We have quite a bit of substance in Section 32 and not just tires. There is a lot of rhetoric here. Is there anything else in Section 32 that we've stricken by way of the amendment that the Committee feels should be addressed?

**SEN. JERGESON:** Most of the rest of that Section is existing law and simply is stricken on these sheets of paper because the amendment, the Section as a whole, was stricken in order to strike that amendment at the bottom.

*{Tape: 1; Side: A; Approx. Time Count: 4:30 p.m.}*

**CHAIRMAN BAER:** We're not changing current law, we are changing the amendment added to current law. In doing so, we are eliminating the entire Section from the bill itself, but not from the MCA.

**Doug Abelin, Street Rodders, Helena:** Section 32 came to our attention just yesterday. It also is going to have an affect on street rods because the new Section refers to the minimum of 20 inches on the rear fender. Most street rods don't have rear or front fenders. The only way we can see to assess that bill is to exempt street rods.

**CHAIRMAN BAER:** Just so everyone understands. Section 32 on page 25 is existing law in the MCA. We are striking it from this bill. It won't be deleted from the MCA. It will continue to exist. We are only striking it for the purpose of eliminating the amendments which were created.

**Leanne Kurtz:** For clarification, when the House Transportation Committee removed from the bill, Section 32, that made what used to be Section 33 on the second reading Section 32. It might make it clear for discussion to refer to the Sections by their MCA Section number: 61-9-406, 407.

**Motion:**

**REP. JORE:** MOTION TO ADOPT NUMBER 2 AND 8 AS ACCEPTED BY THE HOUSE COMMITTEE.

**Discussion:**

**Leanne Kurtz:** Amendment 3, where the reference to 61-9-406 is stricken in the title, is also part of that. I believe **REP. JORE'S** motion would go to numbers 2, 3 and 8.

**REP. SIMPSON:** I do not understand the motion.

**CHAIRMAN BAER:** I believe your motion is to adopt the amendments as stated. They are numbers 2, 3 and 8 on the green sheet.

**REP. JORE:** Exactly, which would leave the language on page 26 of the orange bill stricken rather than replace any language. In other words, that whole Section would be out of the bill and the current language would remain, but the language on lines 15-20 would be stricken.

**Vote:**

**MOTION CARRIES. ADOPT NUMBERS 2, 3 AND 8. SEN. JERGESON AND REP. SIMPSON VOTE NO.**

**Discussion:**

**CHAIRMAN BAER:** Number 4 is talking about off-road lamps, that are mounted more than 42 inches above the level of a surface upon which the vehicle stands, being prohibited when it's operated or parked on a highway.

**SEN. JERGESON:** This was an amendment I was aware was going to be discussed in the House Committee. I agreed to it. Apparently these lights now are not exactly legal and this amendment effectively makes these lights legal, but suggests you not operate them when you are operating or parked on the highway. So people can have these kind of lights and if they want to go to a football stadium and light up the whole stadium with these lights they would be permitted to do so, but if they are coming down the road at me and my family it would be a good idea that they not blind me with them.

**Colonel Reap:** This was in the original bill and there was some other language that talks about those lights needing to be covered and on a separate switch. Those items were deleted. We

thought we would like to try another amendment to bring these back in and make them legal because as you said, technically, they are not legal. This would make them legal, but prohibit them from being lit when the vehicle is on or parked on the roadway.

Motion/Vote:

REP. WELLS: MOTION TO ADOPT AMENDMENT NUMBER 4. MOTION CARRIES UNANIMOUSLY.

Discussion:

CHAIRMAN BAER: Going on to number 5, page 21, lines 1-5.

SEN. JERGESON: I believe we did that when we adopted number 1.

CHAIRMAN BAER: Correct. Going to number 6. We're making some punctuation corrections. Numbers 6 and 7 should go together. On number 7 we're going to page 23, line 15. Following the word "highway" on line 15 we are inserting ";" or "the windshield that is shattered or distorted or in such a defective condition that it materially impairs or obstructs the driver's clear view". This concerns a windshield that is damaged to the extent where it is creating a safety hazard for the driver and others on the highway. The concern expressed to me was the possibility of subjectivity in determining whether or not the windshield is damaged to an extent where it is actually occluding the vision of the driver and has caused a dangerous situation.

SEN. DEPRATU: Where I have a problem is a few years ago I was driving back from Helena and had my windshield broke by a rock. It obstructed my vision, but I could see enough to get home although I had a crook in my neck. I replaced the windshield the next day, but at that time we had a very aggressive young deputy in Seeley Lake and if he had stopped me for any reason he would have most likely given me a citation.

Colonel Reap: That could certainly happen. Again, as REP. CLARK said, the common sense of the officer has to come into play there. If you were to explain how that happened, the majority of law enforcement officers wouldn't issue you a citation for that. If that does happen and also to address Mr. Skinner's concerns, when you do have an officer who you feel is being overly aggressive that's why Justice of the Peace are in place. You can plead your case and state your side of the story and in many cases the Justice of the Peace will find to the benefit of the defendant if it's subjective.

In that verbiage, we deleted the word "cracked" and that's pretty obvious because there are a lot of vehicles that have cracked windshields. We're talking about distortion, where it is shattered to the point where you can't see through the

windshield. Technically, there is no law against that now and it becomes a visibility and safety problem.

*{Tape: 1; Side: A; Approx. Time Count: 4:45 p.m.; Comments: .}*

**CHAIRMAN BAER:** I think we still have the question about the possibility of something occurring that shatters the windshield and immediately thereafter a Highway Patrolman stops the vehicle and could possibly write a citation for the broken window. Do we have any way to address that situation?

**Beth Baker, Department of Justice:** Under our current practice, the warning citations that the patrol officers carry are provided on a printed form that the driver has five days to correct the violation. I think it would not become an issue. All of the vehicle equipment laws are subject to that possible kind of issue. After the Senate Committee took out the language "a crack within" and we realized that was too subjective, we did come up with this language. We looked at other states and some have very long laws. They divide the windshield up into quarters and say if you have so many inches in cracks within this quarter of the windshield, then it's illegal. We could have done that, but chose not to because we thought it was a too cumbersome. We thought it better to have a standard that says if it's shattered or so defective that it materially obstructs or impairs the driver's view that would be a matter that people could apply with common sense. I would offer to take out "or distorted" because that might be more subjective than shattered or in such a defective condition that it materially impairs the driver of the vehicle.

**REP. JORE:** Would you have a definition of how to define materially impairs or obstructs?

**Ms. Baker:** If you get a crack that comes across the bottom of your windshield so you still have a clear view of the things a driver should be able to see, then I don't think it's going to be a problem. If it gives you a big blind spot so you're going to miss a kid running out in the street or you can't see the car behind you, then it could be a problem. We did put the word "materially" so it's not just any impairment or obstruction.

**CHAIRMAN BAER:** It's my understanding that, in the situation of the motorist being stopped for a broken windshield, at that time you would issue a warning citation that would be on the record and if that person were stopped again after the five days or whatever the warning provides, then they would be issued a different citation.

**Colonel Reap:** That's how we work most mechanical violations. That's not to say that if there's something so excessive or so obvious that a citation can't be issued the first time. I wouldn't rule that out in its entirety. We have an internal policy that when a new law goes into effect, we provide a one year period where we don't issue citations. For educational

purposes we issue a warning and do as much public contact as we can to explain the law to individuals so they're aware of it before it goes into effect.

**SEN. DEPRATU:** I believe **Ms. Baker's** suggestion would define it better if we did take the word "distorted" out of it.

Motion/Vote:

**SEN. DEPRATU:** MOTION TO REMOVE "DISTORTED" AND THEN TO ADOPT NUMBER 6 AND 7. MOTION CARRIES. REP. JORE VOTES NO.

Discussion:

**CHAIRMAN BAER:** Number 9, page 32, line 2.

*{Tape: 1; Side: A; Approx. Time Count: 4:55 p.m.; Comments: End of tape.}*

**Leanne Kurtz:** This is not a very substantive amendment. Subsection 3 is referring back to Subsection 2.

Motion/Vote:

**SEN. JERGSON:** MOTION TO ADOPT NUMBER 9. MOTION CARRIES UNANIMOUSLY.

Discussion:

**Leanne Kurtz:** I apologize. I should have had these amendments that went together ready. Amendment number 10 is just changing the Section numbers because Section 32 was removed. Since the Committee decided to keep Section 32 out, then number 10 should have been included with amendments 2, 3 and 8.

**CHAIRMAN BAER:** We can do that without a motion. We've covered the proposed amendments. Are there any other aspects of this bill that are of concern by anyone in the audience or Committee members? We will discuss these briefly.

**Mr. Abelin:** I'm speaking on behalf of the Helena Street Rodders. Here are copies of our proposals. We addressed each one of our concerns by Section number. Submitted and read written testimony. (EXHIBIT 1)

**Ms. Baker:** Two things in response to that. I'm referring to page 6, lines 6-10 which is the taillamp Section and is similar language. The way the bill was originally drafted, they couldn't have covers that were not the original manufacturer's equipment. In response to concerns such as the one just raised, we struck that and the Senate instead put in that they couldn't have aftermarket equipment if it obscures the taillamps or diminishes the visibility distances. What we're trying to address are cases where they have some sort of equipment that makes it harder to



see the lights or you can't see them from the distances that are required by the law. Beyond that, we're not aware that it would conflict with any federal standard, but there's a section in the bill to make it clear. Page 3, lines 8 and 9 say if anything we're adopting in this law ends up conflicting with federal motor vehicle standards, then the federal standards supersede it.

**SEN. DEPRATU:** We do have some conflicts there. We may need to put in an exclusion for special interest, classics, vintage, pioneer and street rods. Also, when it gets down to taillights I think we have some problems with some of those vehicles too.

**SEN. JERGESON:** My brother has a 36 Ford he has fixed up. It has one taillight. What happens to him in the circumstances of these Sections?

**Colonel Reap:** He would be grandfathered in under law at the time the 36 Ford was the car of the day. Vehicles will have to follow the requirements that were in place at that time on the standard equipment.

**CHAIRMAN BAER:** Do we have language to this effect elsewhere in the Code?

**Colonel Reap:** There are some specific Sections that talk about years of vehicles and lighting requirements and so forth.

**CHAIRMAN BAER:** Page 6, Section 51-9-206 talks about stop lamps and the requirements for vehicles manufactured before 1964 and then further up it talks about 1956 as well. What we're saying is the original equipment of an original classic, restored vehicle is grandfathered in if it were legal at the time of its manufacture. We're going to get into a realm here where we've got some modified street rods that aren't going to be exactly the same confirmation as the original equipment. How are we going to address and accommodate for this situation?

**Ms. Baker:** We didn't know about the concerns of the Street Rod folks until now. As **Colonel Reap** mentioned, at least for the older vehicles, we have attempted to go through each Section and make it clear that standards that were in effect at the time of manufacture are what we're talking about. I prepared some language to deal with the bumper issue and we could do the same thing for the fenders. We could say those requirements do not apply to street rod vehicles, vehicles not originally equipped with bumpers or fenders or vehicles for which bumpers or fenders were not required by federal law or regulation at the time of manufacture and then include a definition of a street rod which means a vehicle manufactured before 1949 that has been modified in body style or design. That language comes from the specialty equipment market association which has suggested to us the facts I received today. I propose that amendment for the Section on fenders, Section 32 and the Section on bumpers, Section 42.

**Mr. Abelin:** I would suggest, to save time, we spend a couple hours together and come back to the Committee later on. What happened was we got a green flag over the weekend from the National Association. We missed this and apologize for that.

**CHAIRMAN BAER:** We have to wind up this Committee today. We can open the door for you by allowing you to work with the Department in mitigating some of your concerns. You would have to agree to being subject to the final determination by the Department who would then work with **Ms. Kurtz** in adopting some amendments into this bill because we cannot do this all today.

**Mr. Abelin:** We have total faith in the Department. We would do that and if not, we will be back in two years.

**CHAIRMAN BAER:** How is the Department's take on this? Is this feasible for you to accomplish this within your time frames?

**Ms. Baker:** I think we can do it. We might consider adding a blanket exemption from them somewhere earlier in the bill, but I think we can sit down and in a few minutes get this ironed out.

**SEN. DEPRATU:** One other concern I have is with a specific item that refers back to classic vehicles. That is blue-dot taillights which really don't meet the definition of the red lamp. Yet it's something that is primarily on General Motors vehicles especially during the middle 50's. They are part of what makes those cars a true classic and I would like to have those exempted for those particular years.

**CHAIRMAN BAER:** Is there any problem with the Department on that?

**Colonel Reap:** Just when everything was going so well. Blue is a light color that is officially designated in the statute for law enforcement purposes only. I've seen the blue dot taillights. In fact, I own a 57 Chevy so I know they were real popular. They do look neat going down the road. My concern is that if we open it to that, what is the next step? Someone may fabricate an entire blue lens and where does it end? We have held the line pretty strong on the light colors and how they're used. The green for the DES Incident Commander, the red for certain authorized emergency vehicles and the blue for police only. I would request that we stay in that realm.

**SEN. DEPRATU:** This is one place I have to really disagree. I don't think it's going to open the door where it's used just on that definition of vehicles. There aren't very many of them.

**CHAIRMAN BAER:** Are we talking about 1957 Chevrolets only?

**SEN. DEPRATU:** I'm saying in the 50's in particular it was the way to make up the General Motors cars. It was a regular type of option for those vehicles and in some of them it was actually standard equipment, I do believe.

**CHAIRMAN BAER:** If we are going to make an exception, they must be specific and only apply to specific vehicles. Otherwise, **Colonel Reap's** concern about people adding custom equipment to a vehicle including a blue light could conflict with their intentions.

*{Tape: 1; Side: B; Approx. Time Count: 5:10 p.m.; Comments: .}*

**SEN. DEPRATU:** We may be missing what the definition of a blue light is. They are really a blue dot and in certain taillights it would be a half inch lens that was part of the taillight in the center. The rest of the taillight was red. That's where the word blue-dot comes from. I couldn't start to define all the vehicles they were available on in those years. It is something that makes that car a special interest, classic vehicle.

**Colonel Reap:** Maybe some of the folks from the Street Rodders club could answer this better than I. I don't recall where they were standard equipment although they are available for a multitude of vehicle models. Where do we draw the line?

**REP. JORE:** I've never heard of or seen these. Could we compromise and specify a certain size, square inches or whatever? Would there be any way to work along that line?

**Colonel Reap:** I suppose we can discuss that. I hate to see that weakened at all. The colors are very well defined in the statute now. To open it up even a little bit concerns me.

**SEN. JERGESON:** Are the blue lights not now under the statute without SB 85? Are they allowed?

**Colonel Reap:** They would not be allowed because they are the wrong color.

**SEN. DEPRATU:** Because they have a blue lens in the middle of all of the red.

**Mr. Abelin:** All we really wanted is if it is standard equipment on the original vehicle, if you did ticket them and they could verify it, the ticket is void. That should cover it.

**Lynn Predmore, Helena Street Rodders:** They go back to 1949. I don't actually remember them being standard equipment. I always remember them being an aftermarket item. As long as you understand that when you step on the brake light, the brake light doesn't turn blue where it would be against the law.

**SEN. DEPRATU:** It isn't going to confuse everybody with a blue emergency light.

**Motion:**

SEN. DEPRATU: MOTION TO AMEND THAT BLUE-DOT TAILLIGHTS WOULD BE LEGAL ON 1940'S TO 1950'S VEHICLES THAT ARE CLASSIC CARS.

**Discussion:**

Ms. Baker: We could include this in the street rod exemption language that we're going to come up with for the other Sections and make sure that this blue dot issue is addressed in those amendments as well.

**Motion:**

SEN. DEPRATU: WITHDRAW MY MOTION.

**Discussion:**

Mr. Skinner: I was alerted to this bill on Sunday by one of the Street Rodders. Section 6, page 4, line 22-27 - for making exceptions for early classic motorcycles. Maybe we could make an exception under similar circumstances for off-road motorcycles. They go somewhere in the country, unload their motorcycle, head up into the hills and they may have to drive down a mile stretch of county road. They're violating the law, yet these vehicles don't really need headlights because they are never run at night. If they are registered and aren't run at night, it may be an exception we'd want to allow for these people to become legal.

On Section 7, page 5, lines 17-23 properly functioning taillamps are something I've had a lot of problem with for many years. I operate approximately 50 vehicles and can fix the taillights one day and the next day they're out. The filaments are very fine and we take them off the road to construction sites and have a lot of problem. I repeat, we don't have a problem with the Montana Highway Patrol. We can explain it to them, but if you have a taillight out, the local enforcement stops you and writes a ticket to generate revenue. I thought we could drop the word "properly functioning". I know what they're trying to get at and appreciate that, but I don't want to see that wording added and being used at the local level for a revenue generator.

CHAIRMAN BAER: Let me interrupt you, sir, for a moment. It looks like your suggestions for amendments are very extensive. Perhaps in regard to motorcycles, it might be best to address your concerns in a separate bill at a different time. I don't know how the Committee feels about this. Due to the elaborate nature of your suggestions, we are not equipped to address these specific concerns by way of this Free Conference Committee.

*{Tape: 1; Side: B; Approx. Time Count: 5:20 p.m.}*

Mr. Skinner: This isn't all motorcycles. That taillight, for example, deals with any "properly functioning" taillight on any

vehicle. The problem is, in the construction industry, when you take a vehicle off the road, the vibration jars the filament and you lose the taillight. Section 21, page 15, line 23 is of great concern to me. You're opening the door for real problems. We change the definition of how we interpret exempt trailers from a gross weight of 3,000 pounds to a gross vehicle rating weight. A 3,000 pound trailer may currently haul up to 10,000 pounds and be exempt. When we change it to a gross vehicle weight rating system, it can haul no more than 3,000 pounds with the load. My concern is that there are so many trailers: hay wagons, sheep sheds, car trailers, etc. When you put something on them they are over 3,000 pounds and are no longer exempt, but they didn't come from the factory with brakes. To retrofit these with brakes creates a real problem. We're opening the door to making a lot of people's equipment obsolete.

**SEN. JERGESON:** If we get some amendments for the Street Rodders, I hope it will cover those major items. Perhaps the changes to Section 6 that we actually have in the bill are mostly corrective and updating language and not any kind of major change from what is current law. I would hesitate to make an amendment that would be a major departure from current law and use this bill as the vehicle for that. I would have to ask the Department about this change in gross weight to gross vehicle rating and just what the meaning of that is and whether that can be handled.

**Colonel Reap:** The reason we added the gross vehicle rating language is so we had a way to define what a 3,000 pound trailer was. Many of the homemade trailers that you see made out of pickup boxes and car haulers with trailer house wheels falls into this category in one way or another. The problem is, when they're homemade, they don't have a rating. There's no manufactured rating. Sometimes you can use the axle as a starting point, but they don't have a stamp or a data plate on it that gives us the rating. So we had to determine some other means in order to draw the line to make a difference between what needed this equipment and what didn't. The discussion, as I recall, went from how much does it weigh empty to what's critical here. If you load the trailer, you have to take that into consideration because, as **SEN. JERGESON** says, that's what's going to be coming around to meet the oncoming car if it gets out of control. We looked at a few trailers, at the data plates from manufacturers and made some comparisons. **Mr. Skinner** is right. There are some horse trailers that don't have brakes that would have to have them if this law went into effect as it is. We figure if you put two 1,500 pound horses in a trailer and then you have the weight of trailer on top of that, the operator of the vehicle should be in control of the brakes on that. There is a list of the special equipment that those vehicles use, about safety chain and so forth. If it's under 3,000 pounds, they don't have to have brakes, they have to have a safety chain hooked up in a certain manner and so forth and we made some changes on that.

**SEN. DEPRATU:** I can see a real problem if we go out there having people have to retrofit trailers with brakes that weren't manufactured that way. If we wanted to say something like anything manufactured from January 1, 1998 on and grandfather the others in, maybe that's okay. On a trailer like that, you couldn't put brakes on it for the value of the trailer.

**CHAIRMAN BAER:** Colonel Reap, would you be open to grandfathering in certain trailers under certain circumstances. I can understand **SEN. DEPRATU'S** concern. Some of these trailers would be rendered unusable and the expense of modification to bring them up to these standards would be prohibitive.

**REP. JORE:** Would simply grandfathering trailers in prior to a certain date take care of the problem? Aren't they still manufacturing trailers in that fashion?

**SEN. DEPRATU:** I'm sure they're still manufacturing them, but at least the manufacturer would know they couldn't sell them in this state without that on and it's still going to create some hassle. I look at a boat trailer and I'm not sure what these weights are. People take a sailboat out of water and put them on a tandem trailer and I wouldn't be surprised if you're over 3,000 pounds. I don't think there are brakes on most of those trailers. I don't know that it's even available on some of them. I think we're getting into areas that might be a little difficult.

**Colonel Reap:** After conferring with **Lieutenant Frelick**, he says 3,000 pounds is pretty much the standard across the country, but we would be willing to put a grandfather in, even to the point of the enactment of the bill. Anything manufactured after the enactment of the bill would have to be in compliance with this.

**CHAIRMAN BAER:** This bill will take effect October 1. **SEN. DEPRATU**, do you think the October 1st enactment of this bill would give adequate notice to manufacturers that they would have to comply with these standards after that date?

**SEN. DEPRATU:** It probably wouldn't. I'm really not comfortable, but I'm not a trailer person. I don't know that much about them, yet I know the position it's going to put some of those people in. I think it would be a big help, but when I think about all the different trailers out there.

**CHAIRMAN BAER:** We don't want to create an unnecessary hardship on those who already own trailers. Then again, I can understand the concern of the Department to promote safety and better construction of those that are yet to be built.

*{Tape: 1; Side: B; Approx. Time Count: 5:30 p.m.}*

**REP. JORE:** Perhaps I'll make a suggestion and see where it goes. I move we strike "vehicle" and "or rating" and leave the original language. Maybe they can point out some areas where it's been a

real problem in the past, but it's a change from where we've been and if it's significant, perhaps it would be more appropriate for the Department to change it in a couple of years with a different bill rather than make this big change on these trailers all at once, even with a grandfather clause.

Motion:

**REP. JORE:** MOTION TO STRIKE "VEHICLE" AND "OR RATING" FROM PERTINENT SECTIONS, LEAVING ORIGINAL LANGUAGE.

**Leanne Kurtz:** I think that's the only substantive change in this Section. The other changes are style changes so if you want to get rid of those two words it would be the same as striking the whole Section from the bill.

**REP. WELLS:** We have a similar problem on the next Section. If these trailers don't have brakes now, you can't have an automatic application of brakes. We need to amend both Sections.

**REP. JORE:** I amend my amendment to include Section 22 also.

**CHAIRMAN BAER:** You're amendment is to strike the words "or rating".

**REP. JORE:** We would strike Section 21 and Section 22 and therefor the current language.

**CHAIRMAN BAER:** Okay. So you eliminate them from the bill and leave them current law.

**Ms. Baker:** Are you talking about Section 10 of the bill?

**CHAIRMAN BAER:** Page 15, Section 21, line 23.

**Ms. Baker:** There is one other place where this language occurs.

**CHAIRMAN BAER:** Page 16, Section 22, line 13.

**Ms. Baker:** We'll go along with that. There is also one other place in the bill and that is Section 10, lines 22 and 29. Also on page 8, line 3 and we don't want you to strike the whole Section on this one because there are some other substantive amendments in that Section that deal with safety chains. We will take those out now and study it over the next two years to see if it really is an issue.

**CHAIRMAN BAER:** Without striking Section 10 you would be willing to strike "or rating" on line 22 and 29 and line 3 on the next page.

**Mr. Skinner:** You will have to take the word "vehicle" out also and go back to gross weight because gross vehicle weight will be

the loaded weight. Gross weight, as it was originally, is the unloaded weight.

**Ms. Baker:** That's fine.

**Leanne Kurtz:** I would like to reiterate what I understand **REP. JORE'S** amendments to be. Strike from the bill Sections 21 and 22 in their entirety. Strike the words "vehicle" and "or rating" on page 7, line 22; page 7, line 29; page 8, line 3.

**REP. JORE:** That's my intent. It leaves the language original as it pertains to trailers weighing 3,000 pounds.

**Vote:**

**MOTION CARRIES UNANIMOUSLY. ADOPT JORE AMENDMENTS.**

**Discussion:**

**Jill Z. McGuire, American Bikers Aiming Toward Education (ABATE) of MT:** I am a volunteer lobbyist and we are a nonprofit organization dedicated to the promotion of motorcycle safety. We have a problem with Section 38, MCA 61-9-417. We have no problem with the helmet law for minors. They're not adults and they don't have the right to choose. We do have a problem with the words "properly fitting". I keep hearing that this is a motor vehicle equipment bill. Helmets are not equipment. They are personal wearing apparel and only the wearer can make the decision if it's properly fitting and even in the case of adults, most wearers will choose a helmet that is more loose as it is more comfortable. I don't think they want our children making these kinds of decisions. On the other hand, I don't believe we want policemen making this decision on the side of the road. It could be considered a violation of personal rights as police officers are not allowed to make the laws, only to enforce them.

This also becomes probable cause for a policeman to stop any minor wearing a helmet. It's easy to determine whether a minor is wearing a helmet, however, it's a matter of opinion whether the helmet is actually properly fitting. The Department of Justice specifications are basically nonenforceable. All helmet manufacturers are different. Helmets generally come in only four sizes - small, medium, large and juvenile. You would have a difficult time convincing anyone that a juvenile helmet would fit a four year old and also a 16 year old. Probably, most important is the fact that by adding this type of language to the law, the State is opening itself up to liability. Say Mom goes out and buys little Johnny a helmet so he can ride behind Dad on Sunday afternoons and god forbid, Dad and Johnny get into a terrible accident and little Johnny dies wearing his helmet. Mom can then presumably sue the State of Montana because they have, in essence, told Mom that Johnny would be safe in this helmet. I would ask the Department of Justice, at the very least, to provide a list of approved helmets. However, it's our view that



the new language in Section 40 should be stricken out altogether, specifically the words "properly fitting" and "must" which would strike out the whole Section.

One other thing which is kind of a housekeeping thing and is actually not this bill. It's the existing law, Section 40, MCA 61-9-420. It's on the child safety restraint systems. It looks like this law might apply to motorcycles also as they are considered a motor vehicle. We would ask that you exclude motorcycles in this Section.

*{Tape: 2; Side: A; Approx. Time Count: 5:40 p.m.}*

**Lieutenant Mike Frelick, Highway Patrol Station, Great Falls:** I served on the Committee that attempted to revise this particular Chapter for a year and a half. As **Beth Baker** indicated, we received some information and some correspondence through the Specialty Equipment Market Association which is the Aftermarket Representation Association which represents not only the Street Rod Association but many others as well. The Department is prepared to offer an amendment at this time following the word "justice" to insert "for the purpose of this Section, properly fitting means that the headgear is of a standard size to fit a person of the age of the wearer and does not include adult size headgear".

The Committee was composed of Highway Patrol Officers, members of the MT Sheriff's and Peace Officers Association and the Chief of Police Association across Montana. A big concern they and we, on the Patrol, have are small children wearing adult size headgear that can literally rotate around the child's head and provide minor, if any, significant protection for that child. We're very concerned about that. If, as related to me by a dealer in Great Falls, you have an improperly fitting helmet and you should become involved in an accident, not only do you have the initial contact, you have secondary contact when the head hits the inside of the helmet. There are two different ways you can purchase helmets. You can purchase the correct size and there are inserts available from dealers which can be applied to those helmets to allow for varying head sizes. So we do not consider this to be an unreasonable expectation on the part of either the wearer or the driver which, in most cases, allows a small child to ride on motorcycle with that kind of safety equipment. It is not unreasonable to expect a person to have properly fitting headgear to prevent a child from serious, if not life threatening, injuries. If a person wishes to spend the money, you can actually buy form fitted helmets as the child or driver matures. That's consistent with what I see in terms of bicycle riders and roller bladers who are now wearing helmets. Responsible parents request their children to wear safety equipment. Injuries associated with these kinds of accidents are financially devastating, not only to the individual, but in some cases to the public who has to pay because insurance is not required on motorcycles.

**REP. JORE:** Could you repeat that amendment please?

**Lieutenant Frelick:** Yes, and I have a copy for **Leanne Kurtz**.

**REP. JORE:** I appreciate the Department's concern and willingness to define this term, but I have to concur with **Ms. McGuire** on this. We have, in the statute, a requirement to wear protective headgear. I'm not comfortable going to the extent of defining properly fitting. Before I make a motion, I'll let the rest of the Committee express their thoughts.

**Motion:**

**REP. JORE:** MOTION TO STRIKE SECTION 38 AND LEAVE CURRENT LANGUAGE.

**REP. JORE:** I remember we actually spent some time discussing that. **REP. BARNETT** voted against this bill based primarily on that Section. I can understand what the Department is saying there, but we're going too far in defining properly fitting.

**SEN. JERGESON:** I'm not sure I would want to go as far as eliminating the whole Section because I think Subsection 2 has some importance. It is that minor children, particularly those younger than being of an age to have a driver's license, currently are the ones responsible to make sure that they wear headgear. An adult operator of a motorcycle is the one that ought to make sure that any passengers they have with them are wearing the headgear. Otherwise we would be in the weird position of giving a ticket to a six year old kid because they didn't have the headgear on when it really is their parent, guardian or other adult who is responsible for them at that time.

**REP. JORE,** would you want the Senate to concede to eliminating the language of concern in the first Subsection, but leave this in the second Subsection.

**REP. JORE:** What happens now under this current language? The headgear is required. If there is a juvenile riding with an adult that doesn't have it, do they currently ticket the juvenile?

**Colonel Reap:** The juvenile, under this current statute, gets the citation and it is a problem.

**Motion:**

**REP. JORE:** I will amend my amendment. I will leave Subsection 2 in there. Basically we're striking the words "properly fitting" in Section 1.

**Discussion:**

**Mr. Abelin:** What if the operator is also a juvenile?

**Colonel Reap:** Then the operator would get a citation as well.

**Ms. McGuire:** That was my question as well so it seems to be taken care of presently in the law is it not?

**Colonel Reap:** No.

**Ms. McGuire:** If the operator is a juvenile?

**Colonel Reap:** If the operator is a juvenile, yes, but if the operator is an adult, then the citation goes to the kid.

*{Tape: 2; Side: A; Approx. Time Count: 5:50 p.m.}*

**SEN. JERGESON:** The operator would have to be a person licensed to operate a motorcycle. I don't know whether a 15 year old with driver's education could get to be that person. Under current law, that operator, even as a juvenile, is responsible to wear the helmet. Under current law, they are not responsible to make sure that a passenger who may be a juvenile wears a helmet. What this Subsection says is, if they are not an adult they have to wear protective headgear. They are responsible for them self doing that, but they are also responsible for an underage passenger. If one of my daughters, when she gets to have a drivers license, is taking Grandma for a ride on a motorcycle, I guess Grandma doesn't have to wear headgear.

**CHAIRMAN BAER:** As I understand the motion from **REP. JORE**, in Section 38 the words "properly fitting" be stricken from this Section and everything will remain as is. Is that correct?

**REP. JORE:** Yes.

**Vote:**

**MOTION CARRIES UNANIMOUSLY.**

**Discussion:**

**REP. PAUL BANKHEAD, HD 72, HERON:** You may tell me this may not work. I have an amendment prepared by **Leanne Kurtz**. **(EXHIBIT 2)** I would like to explain the situation and have you understand what I'm trying to get at. There is a farmer, a resident of Idaho, who owns property that the Idaho/Montana state line splits so he has a ranch that is in Idaho and Montana. He is currently hauling logs to Trout Creek, Montana, but he was stopped and told that his truck that he's hauling the logs on, which is his farm truck that he uses to haul cattle and hay, is no longer considered a farm truck in Montana if he's hauling logs on it. It's considered a commercial vehicle. There is the problem and it took a while to determine where exactly the situation was. Montana does not recognize logs in any form as a farm product even though it may be a farmer and it may come off his farm. When he puts them on his truck and gets on the highway, it's not

a farm product. My understanding is, amendment 2 (d) would correct the driver and his license and an ability to operate in Montana. The reason I say this may not work is because right now federal law under CDL recognizes someone that grows trees and logs as a farmer. If he's hauling his own product, he can come into Montana and for his driver's license purpose he doesn't have to have a CDL. At the same time, Idaho recognizes a vehicle 53,000 pounds gross vehicle weight or under as a farm vehicle. So he can be in Idaho driving his farm truck, 50,000 pounds, logs on it, hauling to market for his own self and be perfectly legal with his driver's license and the vehicle is legal also. The moment he crosses into Montana he's legal, but his vehicle is not legal and that is defined in 61-10-206. The Motor Carrier Vehicle Bureau has determined that, because the statute specifically does not mention logs, he is not in compliance if he has logs on his truck. I don't want to open this thing up for a guy that has an eighteen wheeler and is a farmer and is really doing a commercial operation. This may go way beyond the extent of the Committee, but I figured you had all this expertise and wisdom gathered here and couldn't find any other place to come in and tell you. I could work on it next Session, but if we could correct this thing now, I sure would like to.

**CHAIRMAN BAER:** Are we staying within the Title of this bill?

**Leanne Kurtz:** I talked to **Greg Petesch** about this amendment and because the bill is dealing with vehicle equipment, his and my understanding of the amendment was to exempt a farm vehicle that would be hauling logs from any commercial motor vehicle equipment laws. His ruling was that it was within the scope of the bill, barely.

**CHAIRMAN BAER:** Would the insertion of this amendment into your bill be commensurate with your intentions and your desires?

**SEN. JERGESON:** I have pondered that matter some. Technically, it would meet the constitutional provision about not changing the intent of the bill. When I look at this Section that **REP.**

**BANKHEAD** proposes to bring into the bill, I would be willing to accept the judgement of the Committee, but it's my feeling that it probably should be handled in a different bill.

**CHAIRMAN BAER:** Does the Department have any problems with this?

**Dave Galt, Administrator, Motor Carrier Services Division, MT Department of Transportation:** I'm the one that wrote the letter that determined that logs were not a farm product so I'd like to comment a little on that. This is a fee issue. It's whether or not the vehicle pays 100 percent commercial fees or 35 percent agricultural fees. Agricultural fees are for a farmer in the transportation of their own farm/ranch/orchard/dairy products. I hate to see it in the vehicle it's in and a different section of law dealing with fees specifically where I don't even refer back to the commercial vehicle definition to make my determination on

this. I don't like to see that vehicle used to solve this problem, the commercial vehicle definition that's tied to a variety of other things that aren't a problem at this time. When do we determine it's a farmer, it's his logs that are cut on his land and he gets to have those agricultural rights or does it amount to anybody that owns any piece of land and those logs are cut on that owners land. I could rattle off a couple of large timber companies that own all their land and harvest their land. They would not be considered agricultural in my opinion, either. In our view, this amendment doesn't work for the intended purpose **REP. BANKHEAD** is trying to solve although we'd certainly revisit it and discuss the intent of the Legislature. I wish the Committee would not work with **REP. BANKHEAD**, but use a better method to go into the fee section. It won't work in this Section.

*{Tape: 2; Side: A; Approx. Time Count: 6:00 p.m.; Comments: .}*

**CHAIRMAN BAER:** We're operating in kind of a reverse nature of the normal procedure where you move an amendment and then discuss it, but I think it's working pretty well here today.

**REP. WELLS:** This opens up a large area to me. We've heard **REP. BANKHEAD** point out that Idaho law allows up to 50,000 pounds or something and ours is 26,000 pounds. We must have a lot of laws that vary between states and when vehicles that are legal over there come into Montana they are technically not legal for some other reason. Wouldn't it be better to approach this from the standpoint of saying something about vehicles registered in another state had some way to operate on a short term basis or within 100 miles of the border or something. This can't be the only farmer that is violating Montana law because his land is right next to the border. There must be a lot of cases like this. Is that right?

**Mr. Galt:** You're correct. The Department already has authority to enter into reciprocity agreements for a variety of things with our neighboring states. In fact, they don't even have to be neighboring states. We do have reciprocity agreements with all our neighboring states that deal with farmers. It's called mirror reciprocity. The question boils down to, would we interpret our law to allow a Montana farmer to haul his own logs under farm fees or would we require him to purchase commercial fees? In Montana, we would require him to purchase commercial fees to haul those logs therefore I can't let the Idaho farmer come into Montana to do something that I wouldn't let a Montana farmer do. What further complicates this problem with reciprocity is that in Montana the farmer pays his taxes on his vehicle just like a commercial hauler pays taxes on his vehicle. The difference here is 35 percent of the fees. They are either 100 percent or they are 35. This farm user in Idaho has never paid fees or taxes at all so this issue becomes more than just 35 percent fees.

**REP. BANKHEAD:** The question here is reciprocity absolutely, but you have to understand that when I take my farm truck and go all the way over to Spokane, Washington I don't pay any of their fees either. Reciprocity works for everything else, but one thing and that's logs. He's a farmer on a farm truck. Explain to me the difference. I don't see it. It's a matter of definitions here, boiling down to what is a farm product.

**REP. JORE:** I'm basically in favor of what **REP. BANKHEAD** is trying to do here. Before I move it, I need to be clear exactly on what our prerogatives are with this bill. We can't kill it in here, can we?

**CHAIRMAN BAER:** The bill can be killed if that is the desire of the Committee.

**REP. JORE:** I voted against the bill in the Committee and on the floor and I don't think we've changed it enough to where I'll vote for it now. I support this amendment, but I don't think, even with the amendment, that I would vote for the bill.

**Motion:**

**REP. JORE:** MOTION TO ADOPT **REP. BANKHEAD'S** AMENDMENTS  
SB008506.ALK.

**Discussion:**

**Leanne Kurtz:** If the Committee does want to adopt this, I would request that I be able to talk to **Dave Galt** because he says it's not going to accomplish what **REP. BANKHEAD** wants it to. Maybe I misunderstood what he wanted or something, but if this isn't going to work it might not be worthwhile. I want to make sure that if something is adopted it will do what **REP. BANKHEAD** wants it to do.

**REP. SIMPSON:** I don't have any problem if you want to call logs a farm product and people who log, farmers. I can just see us opening up a can of worms here. I have to agree that if you're going to do this and it's a commercial thing, it probably should be with fees and if it's not commercial then you're saying to all farmers who have timber on their land that they can haul it on their vehicles.

**SEN. JERGSON:** It probably would not be constitutionally outside the scope of the law, but I think in fairness to what **REP. BANKHEAD** is trying to accomplish I suspect this is not the only Section that would have to be changed to really accomplish that. If we start adding two, three, four other Sections we would start getting to the point where it may not be within the Title of the bill. For sure, we would be getting beyond the matter of motor vehicle safety. I'm sympathetic about his suggestions, but I'm nervous about trying to go whole hog in offering a whole other bill into the vehicle of SB 85.

*{Tape: 2; Side: A; Approx. Time Count: 6:10 p.m.}*

**CHAIRMAN BAER:** I think the idea is okay, but I don't think the vehicle is proper even though **Ms. Kurtz** has checked with **Mr. Petesch** and found it to be within the Title, barely. I just don't think we're going to be accomplishing what **REP. BANKHEAD** wants to do by inserting it into this bill. Inasmuch, your language might fall short in your amendment and I would hate to see you stumble in your endeavor to accomplish what you really want to do by rushing your amendment into this bill this Legislative Session.

**Vote:** MOTION FAILS. TIE VOTE - ROLL CALL.

**Discussion:**

**CHAIRMAN BAER:** I'm not anticipating any further serious modifications of this bill and having taken care of the trust me amendments between the Department and the Rodders.

**Ms. Baker:** I'm happy to report that we worked it out in the hallway while you were discussing that last amendment.

**SEN. DEPRATU:** I have a couple more areas of concern or clarification if you don't mind, going to page 9 of the bill on lines 20, 23 and 24. My concern on line 20 is having to do with the lamp or the reflector on a tractor. It seems to me, on the big dual wheeled tractors, that the taillights are mounted on the fenders and the dual wheels stick out quite a bit farther. This says the taillight has to be out to the farthest projection of the tractor. Is that a problem? The same way with implements of husbandry being towed by a motor vehicle having to have lighting systems on them.

**CHAIRMAN BAER:** It looks like the language has been changed a little bit, but the intent of the statute doesn't seem to be modified by the language change. Where it says "will indicate" we inserted "indicates", we crossed out "the furthest" and put in "farthest". I think we're getting into semantics here. —I don't think this really changes the existing enforcement of the bill. Am I correct?

**Colonel Reap:** That's correct, it's existing language in line 20.

**CHAIRMAN BAER:** If your intent is to modify the existing enforcement, that's fine.

**SEN. DEPRATU:** I guess I don't understand. How does enforcement go? Really that light is on the fender on the inside, but you've got a dual wheel that is sticking out here another 18, 24 inches. It looks to me like we're making units illegal.

**Colonel Reap:** I don't think that's a real bone of contention of our enforcement. It's just necessary at night and they do run

occasionally, but not a lot. I think there's a lot of common sense taken there and I don't recall it ever being a problem. Even a projecting load on the back of a pickup truck, for example, is allowed to be out four feet before a light is put on the end of it.

**SEN. DEPRATU:** This would come under that then?

**Colonel Reap:** I guess you could stretch it to that point.

*{Tape: 2; Side: A; Approx. Time Count: 6:17 p.m.; Comments: End of tape.}*

**SEN. DEPRATU:** Being towed by a motor vehicle must have lights at all times. If you're dragging a side delivery rake down the road with a pickup, does it have to have taillights on it?

**Colonel Reap:** That's correct. The reasoning behind it is that there are some implements of husbandry that are towed and not self-propelled that don't have electrical systems. Some of them, just by the nature of their design, cover up the taillights on the towing vehicles so basically you have a dark vehicle going down the road so this would require that those type of pieces of equipment be equipped and then it gives the following types of lights, similar to what a wrecker would put on the back of a car. It's an extension cord with a magnetic light that functions off the taillights of the towing vehicle. It's a real simple setup.

**SEN. JERGESON:** If I take my tractor and I pull a tool bar down the road, current law says I have to light that but instead of pulling it with my tractor, I pull it with my pickup and don't have to light it. So the change in here is that you ought to have the same standard if you're pulling it with a pickup as you would if you're pulling it with the tractor itself.

**SEN. DEPRATU:** On page 27 where it had to do with our fenders, are we eliminating monster trucks or big wheel trucks from the highway because they don't have fenders that extend out over those tires?

**Colonel Reap:** I'm not eliminating anything. I think we require that they have some type of equipment on their vehicles, at least when they're used on a public roadway, to protect the other users of the roadway. One of the main reasons for the change to this law is that pickups were required to have mud flaps if they were 20 inches off the ground, but a Chevy blazer which is not considered a pickup yet some of them get jacked up to 20 inches or more under current law were not required to have mud flaps for protection. In answer to **SEN. DEPRATU'S** question, when they're being used on the public roadway, they would be required to have something to protect.

**SEN. DEPRATU:** I don't have any problem with mudflaps. I think those are good. Where I'm having the problem is, on a lot of



these vehicles, half the tire sticks out beyond the body width and a fender isn't part of the body. That would then become illegal. We're probably going to eliminate about 8 percent of the pickups out there off the road or eliminate the tires and wheels that are on them, I guess.

**Colonel Reap:** I think the solution to that would be the way that we enforce them now. If the wheel extends beyond the outside edge of the fender of the vehicle then there has to be some kind of a mud flap protection that extends out to the width of the tire. We've never enforced those to any extent as long as they have some type of apparatus or flap extension to catch that.

**SEN. DEPRATU:** I'll let it go.

**Ms. Baker:** I just found out that we didn't agree to everything. There is one issue having to do with undercarriage lighting. The bill, as it's written on page 15, lines 2-4, prohibits undercarriage or license plate decorative lighting while the vehicle is being operated on the highway. One of the principle things that motivated this bill was law enforcement concerns about these new fangled lights that are on the vehicles which are often neon and diminish not only the visibility of things like the license plate, but perhaps obscure or make it difficult to determine the color of the license plate. The aftermarket folks have now raised a concern about that because they want to be able to continue to provide these lights and our position is this is one thing we feel strongly about from the law enforcement perspective. These lights have created a real problem for law enforcement. They can put them on, but they cannot have them on while the vehicle is being operated on the highway. That's the purpose of the bill.

**Mr. Abelin:** We would willingly give up the license plate lights if we could have the underbody neon. It's not a visible light. All you get is the backlight on the ground.

**SEN. DEPRATU:** Are you talking about having the lighting available to be on while you're driving it down the road?

**Mr. Abelin:** That's what they're asking.

**REP. JORE:** When you were explaining your position on that, I didn't perceive it was a safety factor, but merely law enforcement and identification. Were there any safety concerns with these lightings?

**Lieutenant Frelick:** Like the motorcycle helmet situation, the large complaint came from law enforcement in the cities and counties with regard to this issue. The complaint is kind of multi-faceted. For example, in Great Falls we have experienced such lighting that pulsates with music. In other words, flashes off and on with the beat of the music. In some cases it can give the appearance of an authorized emergency vehicle depending on

the color of the lights underneath the vehicle. It is the feeling that it is a distraction upon the highway causing other motorists to draw attention to that vehicle especially when it's associated with lights around the license plate that rotate and flash. We have some strong opposition to that because of the possible association of that vehicle as an emergency vehicle. Most importantly, the safety factor is that it offers a distraction to the rest of the motoring public who are operating vehicles. The City of Great Falls has experienced some accidents as a result so they have some real concern. We didn't want to say you can't have it if you wanted to operate the vehicle in the parking lot or a show or whatever. You are most welcome to have that on, but when it's operated on a highway it is, in our opinion, a distraction and a safety factor.

*{Tape: 2; Side: B; Approx. Time Count: 6:25 p.m.}*

**CHAIRMAN BAER:** Unless a member of the Committee is willing to make a motion regarding this issue, the language will remain the same in the bill.

**REP. JORE:** I'm not totally convinced that undercarriage lighting would be extremely unsafe. I think I can do this by making a motion to strike "undercarriage and or" on line 2. I'll just see where it goes. Maybe the Committee doesn't agree and then the license plate decorative lighting that is not original would remain.

**Motion:**

**REP. JORE:** MOTION TO AMEND PAGE 15, LINE 2 BY STRIKING "UNDERCARRIAGE AND OR".

**CHAIRMAN BAER:** Does the Committee understand the motion by **REP. JORE**? Any further discussion?

**Ms. Baker:** Rather than strike it altogether, I'd suggest an alternative which I think would satisfy these folks. It would say "undercarriage or license plate decorative lighting ~~that~~ rotates, flashes or oscillates or displays the colors red, blue or any color used by law enforcement or emergency vehicles may not be illuminated on the vehicle that is operated upon a highway or street". This is language we got from the Aftermarket Association. They're agreeable to prohibiting the flashing lights that can be distracting to other drivers or police and emergency color lights. They want to have just the stationary light that shows purple or some other color underneath that doesn't flash.

**REP. JORE:** I change my motion to include that language so that undercarriage or license plate lights would remain as long as there is no rotation, flashes or oscillation.

**SEN. JERGESON:** Does this make you more likely to find favor with the bill?

**REP. JORE:** No. We'd be here too long if I had to go through all that.

**CHAIRMAN BAER:** Is the Department comfortable with the proposed amendment?

**Ms. Baker:** It wouldn't be our preference, but if the Committee chooses we'd go along with it.

Vote:

MOTION CARRIES UNANIMOUSLY. ADOPT REP. JORE'S AMENDMENT WITH DEPARTMENT'S LANGUAGE.

Motion:

**SEN. JERGESON:** MOTION TO ADOPT THE OUT IN THE HALLWAY CONSENSUS AMENDMENTS BETWEEN THE RODDERS AND THE DEPARTMENT.

Discussion:

**CHAIRMAN BAER:** Do we need to have that amendment recited before the Committee?

**SEN. DEPRATU:** Could we just have the Section with the blue-dot?

**Ms. Baker:** Following the end of that sentence on line 10, page 6 we would add the sentence "This Section does not prohibit a vehicle manufactured prior to 1960 from being equipped with a taillamp that includes within the red cover, a center lens that is blue in color."

Vote:

MOTION CARRIES UNANIMOUSLY.

Motion/Vote:

**SEN. JERGESON:** MOTION TO ADOPT SB 85 AS AMENDED BY THE CONFERENCE COMMITTEE. MOTION CARRIES. REP. JORE VOTES NO.

ADJOURNMENT

Adjournment: 6:32 p.m.

A handwritten signature in cursive script, appearing to read "L. Baer", written over a horizontal line.

SEN. LARRY BAER, Chairman

A handwritten signature in cursive script, appearing to read "Angie Koehler", written over a horizontal line.

ANGIE KOEHLER, Secretary

LB/AK