

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on January 7, 1997, at 10:00 A.M., in Room 410.

ROLL CALL

Members Present:

Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Debbie Bowman Shea (D)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Bea McCarthy (D)

Members Excused: None

Members Absent: None

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 9; Posted 1-6-97
Executive Action: None

HEARING ON SB 9

Sponsor: SENATOR RIC HOLDEN, SD 1, Glendive.

Proponents: RON ASHABRANER, State Farm Representative
WARD SHANAHAN, Farmers Insurance Representative
FRANK COTE, Deputy Insurance Commissioner
STEVE TURKIEWICZ, MT Auto Dealers Association

Opponents: RUSSELL HILL, MT Trial Lawyers Association

Opening Statement by Sponsor:

SEN. STEVE BENEDICT, SD 20, Hamilton, presented SB 9 for SEN. RICK HOLDEN. This is a bill for an act entitled: "AN ACT MODIFYING WHEN REPLACEMENT VALUE IS USED AS A MEASURE OF DAMAGES

FOR A MOTOR VEHICLE; REQUIRING MOTOR VEHICLE INSURANCE POLICIES TO ALLOW FOR THE USE OF BOOK VALUE AS A MEASURE OF DAMAGES; AMENDING SECTIONS 27-1-306 AND 33-23-202, MCA; AND PROVIDING AN APPLICABILITY DATE." The basic intent of the bill is when the measurement of cost of repairing the motor vehicle exceeds its value is the actual replacement value of the motor vehicle rather than its book value unless the parties agree to use the book value.

{Tape: 1, Side: A; Approx. 2 min; Comments: None.}

Proponents' Testimony:

Ron Ashabraner, State Farm Insurance Representative. State Farm insures approximately 1/3 of the insured automobiles in the State of Montana. We would support SB 9 for the following reasons: For several years because of current statutes, when a claim representing this process of attempting to settle a claim, the insurance company is barred from mentioning book value. Under normal circumstances when you settle a total loss, you call car dealers, do comparables, etc. Occasionally you don't find that vehicle. Figures are not available. Prior to the current language you could show the client the book value of their car and would they be interested in accepting this value. It is a negotiating position because they may come back and say no I don't want the \$1300 book value I would like \$1350. Currently, we can't even talk about book value. This is unique because credit unions do, banks do, anyone in the loan business uses book value. This does not mean that the person has to use this value as a settlement for his car but it does have some relativity when you talk about the value of an automobile or truck. In the rural areas, it has created a significant problem because there may be only one car dealer. This does not relieve the company of finding comparable values. But when all other avenues have been exhausted you have the opportunity to say the book value is such and such. This bill does not prohibit claims people from revealing what the book value is and use this figure as a offer. It does not mean that that is the value of the vehicle or that the person has to accept it. Thank you for your time.

Ward Shanahan, Helena Lawyer, Representing Farmers Insurance Group. We support the bill. The bill could be made more specific by defining what book value is. An amendment could describe book value as the National Auto Dealers Association Blue Book, which is the book we are talking about. Otherwise there may be some confusion as to which book. As in rural areas, where there may not be many choices, at least this would give a place to start negotiating. The insured still have the right to come in with other testimony as to what the vehicle is worth. Thank you.

Frank Cote, Deputy Insurance Commissioner. We support the concept of this bill but we have some concerns that I think can be addressed with some amendments. One concern has been

mentioned by Mr. Shanahan. There isn't anything that defines what actually is book value. The other concern is the way the bill is currently drafted; insurance carriers could put in their contract that the client would agree to use the book value and then the client would have no choice at the time of loss. We would suggest that the agreement happen at the time of loss or the time of the claim so that the insured can say I agree or I want to have the market analysis done. Thank you.

Steve Turkiewicz, Executive Vice President of MT Auto Dealers Association. In clarification, I would like to point out that there is the National Automobile Dealers Association Used Car Guide. Blue Book is a separate book by Kelly. Next, the State of Montana uses book value for the appraisal of motor vehicles for purposes of taxation. You may find that in Title 613-503, Sub C and it states the use of the National Automobile Dealers Official Used Car Guide, the NADA Appraisal Guide, The Official Older Used Car Guide and other nationally published used vehicle or appraisal guides. This is not without precedence. Perhaps with the amendments suggested by Mr. Cote this would offer all parties a point at which negotiation could begin. When one of our dealers is called for appraisals, the dealer goes to the NADA Used Car Guide and looks up the value of that particular vehicle.

{Tape 1; Side: A; Approx. 10-14 min; Comments: None.}

Opponents' Testimony:

Russell B. Hill, Executive Director of Montana Trial Lawyers Association. I do feel that it can be amended. At this point we are in opposition to the bill as it is now written. See (EXHIBIT 1)

Questions From Committee Members and Responses:

{Tape 1; Side A; Approx. 15 min; Comments: None.}

SEN. BENEDICT asked **Frank Cote** to address some of Mr. Russell Hill's concerns. **SEN. BENEDICT'S** understanding is that the consumer is protected from coercion by the insurance company by the language that says "unless the parties agree to the book value" and then down on lines 21 and 22 "if agreed to by the parties or on the actual replacement value if the parties do not agree to use the 'book' value." **Mr. Cote** replied without the amendments which I proposed where the agreement happens at the time of the loss, the insurance carrier could place a clause in their contract that says: You agree to accept book value anytime there is a loss. If that were to happen they would not have the option to disagree with the book value. I spoke with the bill's sponsor about this yesterday and he also agreed that he was not trying to create that problem.

{Tape 1; Side A; Counter: 17 min; Comments: None}

Closing by Sponsor:

SEN. BENEDICT closed for SEN. HOLDEN on the bill asking for thoughtful consideration.

CHAIRMAN HERTEL asked Bart Campbell, Legislative Council, if he felt he had the necessary information to make the changes that were expressed in the testimony by the proponents. Mr. Campbell replied yes, but he was not sure that any amendments were necessary. He would await further action by the committee.

ADJOURNMENT

Adjournment: 10:25 A.M.



JOHN HERTEL, Chairman



Mary Gay Wells, Secretary

JH/mgw