

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By CHAIRMAN ARNIE MOHL, on January 30, 1997, at
1:00 PM, in ROOM 325

ROLL CALL

Members Present:

Sen. Arnie A. Mohl, Chairman (R)
Sen. Mack Cole, Vice Chairman (R)
Sen. Larry Baer (R)
Sen. Bob DePratu (R)
Sen. John R. Hertel (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (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 Services Division
Phoebe Kenny, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 64, Posted 1-13-97
Executive Action: none

HEARING ON SB 64

Sponsor: SENATOR BRUCE CRIPPEN, SD 10, BILLINGS

Proponents:

Joe Mazurek, Attorney General
Mick Robinson, Governors Office
Colonel Craig Reap, MT Highway Patrol
Paul Hazelton, Montana Highway Patrol
Tom Daubert, MT Traffic Education Association
Tim Gomke, Chinook Police Department
Ben Havdahl, MT Motor Carriers Association
Tom Harrison, AAA

Dick Patterson, Montana Senior Citizens Association
Roger Scott
Ray Barnicoat, Highway Safety Management Committee
Katherine L Truman, Deputy Park County Attorney
Clarence Brazil
Betty Waddell, Montana Association of Churches
Ken Crippen, Watkins Shepard Trucking

Opponents:

Gregory P Mohr, Justice of the Peace
Gary Balaz, Deputy County Attorney
Michael Was
Jennifer Bordy
Terry Murphy
Jim Croft
Alan Hobbs
Kristi Blazer
Michael Fellows
Dave Brown, Montana People Against Set Speeds
Bill Bonnie
John Youngbird, MT Farm Bureau
Todd Mowbray
Martin Powers

Opening Statement by Sponsor:

SENATOR BRUCE CRIPPEN, SD 10, BILLINGS, I bring before you today SB 64 at the request of the Governor and the Department of Justice. I bring you an act to enhance the public safety on Montana roadways by imposing a daytime speed limit on public highways of the state. The speed limit is set for 75 miles per hour on the interstates and 65 miles per hour on the other highways in the state. This is a daytime speed limit, it does not affect the night time speed limits which will remain the same. If the speed limit imposed by this bill is exceeded by no more than 10 miles per hour the driver upon conviction shall be fined \$25.00 and that violation shall not be recorded against the drivers record, and the insurance company may not hold the violation against the driver or increase the premium. This debate today will deal a lot with the basic rule and its applicability. We still have a basic rule if this bill passes.

In Montana, before the nation wide speed limit, we had the basic rule which is essentially no speed limit. After World War Two there was a time where counties were involved in the speed limit. This created somewhat of a problem because it created inconsistencies. In 1974 and on until 1995 we had the 55 mile an hour speed limit for a total of 26 years. What is the basic rule? It is defined that a motorist shall drive in a careful and prudent manner and at a rate of speed no greater than is reasonable and proper for safety, weather, road, and vehicle conditions. Is this an objective standard. Clearly not? This is a standard that is subject to various interpretations under similar

circumstances. This is confusing to the driver, law enforcement, and those who have the job of deciding in a court of law what is reasonable and prudent. We are back today where we were after World War 2 when the counties decided that they could impose speed limits to what they felt would be appropriate. There will be testimony that speeds have increased especially with out of state motorists, becoming a menace to the rest of us on the highways. Crashes have increased. Deaths involving daylight crashes have already doubled. Last but not least, misunderstanding about the basic rule is rampant.

I decided to ride with a number of law enforcement officers across the state to try to get a broader spectrum of what was going on. During that time we stopped in excess of 20 cars for what the patrolman thought was a violation of basic rule. Every time the driver was confused and angry. During the conversation with some of the highway patrolman, I found that even in different jurisdictions there were different variations on the definition of what reasonable and prudent was. I did a poll in my voting district and 55% were in favor of a posted speed limit.

I would submit to you that this is an issue that demands to be debated. People are interested in this. You will hear testimony that we are the only state in the nation that does not have a posted daylight speed limit for cars and pickups. Montanans feel that government should defend our shores, deliver our mail and other than that stay the hell out of our lives. I would hope that during the debate you would think on this theme a little bit and that some of the opponents could shed some light on that issue, so that it could be understood.

Proponents' Testimony:

Joe Mazurek, Attorney General, on behalf of Governor Racicot, I would like to thank Senator Crippen for agreeing to carry this bill on our behalf and on our request. I think this is an important bill. It raises a significant issue of public policy in this state. It affords you as the elected representatives of the people of this state the opportunity to engage in a debate which is finally taking place where it should be in the halls of these chambers. The proposal before you, would establish a safe, certain and sensible daytime speed limit on the highways of our state. It will provide reasonable objective and consistent parameters to the travelling public. Above all it will promote safety for all of us. I think that the majority of Montanans continue to drive at a reasonable speed. I think that it is the out of state people that are driving too fast. Anyone who has driven on our highways since the federal speed limit was lifted would see that speeds are up, crashes are up, daytime fatalities are up, close calls are up, bad passes are up. Although total fatalities are down from our recent record high last year, they are still too high. The basic rule is simply not adequate. National publicity has given the impression that once you cross the borders into Montana you have an open invitation to drive as

fast you want. Montanans have a right to consistency and safety and they can not be provided that by an officer by officer basis. They are entitled to know what the public policy of this state is for safe driving. What has been missing in this discussion is we and us. The focus has been on me. I hear little concern about what is best for all of us, our driving public as a whole. It is my hope that we will not focus on our individual interests in this discussion but our collective ones. Lets not forget our 8 million visitors each year. By enacting SB 64 you will be sending a message to the nation that Montana expects those who visit our state to adhere to a safe, certain, and sensible speed limit.

Mick Robinson, I am here representing **Governor Racicot** as a proponent of this bill. This legislation was developed because we are concerned about the impacts of those who choose to interpret our standard of reasonable and prudent, as permission to do as they please without regard to those who also share Montana's highways. Because all of us that live in this state share in the cost and tragedy of lost lives resulting from excessive speed, we are compelled to take action which includes legislation such as this. There are many reasons to support this legislation, the chief one being the increase in injuries and fatalities directly attributed to speed. Information indicated twice as many deaths attributed to speed. The other factor is the inconsistent enforcement caused by the reasonable and prudent standard. I would simply thank you for the ability to testify today and indicate **Governor Racicot's** strong support for this legislation.

Colonel Craig Reap, MT Highway Patrol, submitted written testimony. (EXHIBIT 1).

Paul Hazleton, Montana Highway Patrol, the basic rule is confusing for all involved. Officers are getting frustrated with trying to enforce the basic rule. The reasonable and proper speed changes from mile post to mile post. Everyone interprets the law differently. Set limits cut down on accidents and protect lives. People need numerical limits posted on signs. For the safety of all the citizens of Montana, our loved ones and the visitors of the state we need to adopt a numerical number and set a guide for the state.

{Tape: 1; Side: 2; Approx. Time Count: 1:55}

Tom Daubert, MT Traffic Education Association, we stand in support of this bill for the reasons previously testified to. I would just emphasize one point, please keep in mind that not all of us driving the highways are as wise as those of us in this room today. Thank you.

Tim Gomke, Chinook Police Department, submitted written testimony, (EXHIBIT 2).

Ben Havdahl, MT Motor Carriers Association, submitted written testimony, (EXHIBIT 3).

Tom Harrison, AAA, we have 100,000 members in Montana. I would like to put this in context of the feeling that, the buck has to stop somewhere. Where should policy be set in the state on Montana? We need direction from you. We don't feel it is fair that some of our guests be arrested at 75 miles an hour while others are not. Why not have the policy directed from the top down instead of the bottom up. Thank you.

Dick Patterson, Montana Senior Citizens Association, we are concerned about the welfare of our sons and daughters and ourselves and our friends and neighbors. **Senator Crippen's** bill addresses the concerns that we had, we support it and ask for your approval.

Roger Scott, for eight years every fatality report had to cross my desk. More often than not the causes were drinking or too fast for conditions. Thank you.

Ray Barnicoat, Highway Safety Management Committee, one common threat that I have noticed in teaching defensive driving is that most people don't understand proper following distance, total stopping distance or velocity. I think that we need to have a fixed limit to help keep some of these issues intact. For example at 80 miles per hour the feet traveled per second is 120 feet. It takes approximately 3 seconds for an individual to identify and react to a hazard which puts you up to over 540 feet a second. For that reason and the others that were testified too, I urge your support of this bill. Thank you.

Katherine L. Truman, Deputy Park County Attorney, I prosecuted the 101 miles per hours case and convicted him in justice court. He then appealed it and went to district court and the jury found him not guilty, at the total cost to Park County of \$671.07. I now have another case coming up. The driver was clocked at over 100 miles per hour in a four door sedan rental that is going to jury trial. I strongly advocate for a numerical speed limit.

Clarence Brazil, when the 55 miles per hour speed limit was abolished I was all for going back to the way it used to be. However it seems that people have changed a lot in the last 20 years. They are not as responsible as they used to be. I am definitely for a numerical speed limit.

Betty Waddell, Montana Association of Churches, we are in strong support of SB 64.

Ken Crippen, Watkins Shepard Trucking, submitted written testimony, (EXHIBIT 4).

Opponents' Testimony:

Gregory P Mohr, Justice of the Peace, letter was read into record, (EXHIBIT 5).

Gary Balaz, Deputy County Attorney, Bozeman, submitted written testimony, (EXHIBIT 6).

Michael Was, submitted graphs, and article (EXHIBIT 7). I am definitely opposed to enacting a daytime speed limit. Thank you.

Jennifer Bordy, I represented the Livingston man who was acquitted of violating the basic rule for going 100 miles per hour. I assure you that the jury was not the least bit confused about our basic rule statute. The confused person was the highway patrolman, who stopped him simply because he was going 101 miles an hour. That highway patrolman did not take into account that it was a beautiful day, it was a straight stretch of road, and there was no traffic. The jury was perfectly correct and it illustrated why we don't need numerical limits. It is not an objective standard. I would like to say that the repeal of the national speed limit does not mean that anyone has driven differently. The studies have shown that the average speed is around 72 miles per hour.

Terry Murphy, submitted written testimony, (EXHIBIT 8).

Jim Croft, submitted written testimony, (EXHIBIT 9).

Alan Hobbs, I am a travelling salesman. The passage of a numerical speed limit will do nothing to improve anyone's judgement. I think we are better off to have our highway patrolmen use their own judgement. A lot of people in Montana travel to make a living. I oppose a flat speed limit. Thanks.

Kristi Blazer, I have never testified on a bill before in my life. I feel strongly about this bill. The reason is because of my love of Montana and my love of the spirit of Montana. Montana is a unique state. There are lots of miles of highway with very few cars on them. Our current speed limit recognizes the differences that exist throughout the state. We don't want or need a standardized arbitrary numerical speed limit. I was proud of Montana when we refused to buckle down to the federal government and we imposed the five dollar ticket. Now Montana has the chance to reaffirm its individuality and show its respect for less government and greater individual freedom. I ask that the committee please defeat SB 64. Thank you.

{Tape: 2; Side: 1; Approx. Time Count: 2:30}

Michael Fellows, submitted written testimony, (EXHIBIT 10).

Dave Brown, Montana People Against Set Speeds, Montanans are prudent and reasonable. I believe that the majority of Montanans are against this legislation. I urge your strong opposition to this legislation. Thank you.

Bill Bonnie, I myself never drove at the numeric speed limit. I drove with the conditions of the road and the weather at the time. I was passed by a lot of people driving the speed limit when the conditions of the road merited a much slower speed. Now that we have had the reasonable and prudent law for a year I still drive the road conditions. My own personal feeling is that if you put a speed limit on you are going to take away our ability to take responsibility for ourselves and create a speed limit that people will drive at. Please vote against SB 64.

John Youngbird, MT Farm Bureau, we would like to go on record as opposing SB 64.

Todd Mowbray, submitted written testimony, (EXHIBIT 11).

Martin Powers, submitted written testimony, (EXHIBIT 12).

Questions From Committee Members and Responses:

SENATOR LARRY BAER, do your charts take into consideration the winter of 1996 was one of the most severe and dangerous winters that we have had in a long time?

Colonel Reap, they certainly do. Those numbers are what accrued at that time.

SENATOR BAER, do you think the severity and the dangerousness of the weather conditions had a substantial affect on the increase in crashes and fatalities.

Colonel Reap, well certainly road conditions do play a factor in this. They are not specified as a distinct group.

SENATOR "SPOOK" STANG, if there was something that we could do to make the basic rule a little more interpretable to your officers, could you give us that information?

Colonel Reap, we do have that from last session. I would be happy to get that information to you.

SENATOR STANG, have your officers noted an increase in tickets written in, about, or through construction zones?

Colonel Reap, that is correct.

SENATOR STANG, what does the Highway Patrol or the Montana Department of Transportation plan to do if this bill does not pass in situations where people come off the cut off road doing between 65 and 70 miles per hour and all of a sudden come up to a 35 to 40 mile an hour speed limit sign.

Gary Gillmore, Montana Department of Transportation, we have not addressed that knowing that you would be addressing a speed limit and we did not want to jump ahead of you. Our speed limits are

based on what a normal car would have to slow down to if they were approaching various side attractions or reasons why they would slow down. Our speed limits are based on the 85th percentile when we set speed zones.

SENATOR MACK COLE, do you have any figures on the number of people that have been picked up and the number that have been found guilty as far as in state and out of state?

Colonel Reap, we don't have that. It would take a hand search through every court and we didn't feel that we had the capability of doing that.

SENATOR COLE, I did a little checking and there was something like 42 in a couple months of convictions and two were in state and all the rest were out of state.

SENATOR LINDA NELSON, I do a lot of driving and as I buzz across the state I would say 9/10 of the cars that pass me are out of staters. In their passing they are not driving careful and prudent. I feel that Montanans are going to be punished for what these out of staters do. I am wondering where the highway patrol is, that I am not seeing them out there stopping these people?

Colonel Reap, our statistics indicate that we wrote almost double the number of basic rule violations. I don't know how many were out of state.

Closing by Sponsor: Senator Bruce Crippen, thank you for a good hearing. The comment was made that the quota system was the real culprit behind this. How ludicrous. The testimony was given throughout this that the only people that didn't know anything about the basic rule were the very people that we hired to enforce it. If you think that the basic rule is 101 mile an hour than you should kill this bill out right. I don't think that is the opinion of most Montanans. As a legislative body and as legislators we know very well when we set out to pass laws that we have to have a criteria of laws that when applied will be clearly definable, understandable, and be applied in a consistent and non-arbitrary manner, and they will be in the public's interest. That is exactly what we are talking about today. The basic rule as a substitute for the posted speed limit is not an objective standard and as such clearly violates the criteria that we have to follow. Who decides what is reasonable and prudent? It is everyone of us. You can go anywhere in the United States and ask this same question and everyone will say exactly the same thing. We are fiercely independent and our state is the best. We are no different, we are all part of a nation that is unique. As such we have a responsibility to one another. With that I close. Thank you Mr. Chairman. He submitted a packet of additional testimony (EXHIBIT 13).

ADJOURNMENT

Adjournment: 3:00 PM


SEN. ARNIE MOHL, Chairman


PHOEBE KENNY, Secretary

AM/PK