

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By VICE CHAIRMAN MACK COLE, on March 4, 1997, at
3:19 PM, in Room 410

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: HB 290 and HB 99,
Posted 2-24-97
Executive Action: HB 290, HB 93, HB 202

HEARING ON HB 290

Sponsor: REPRESENTATIVE HAL HARPER, HD 52, Helena

Proponents:

Les Graham, self
Cary Hegreberg, MT Wood Products
Jim Richard, MT Wildlife Federation

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE HAL HARPER, HD 52, Helena, HB 290 is a bill that I am surprised the State of Montana hasn't presented before. I know that it has been a law in Oregon for as long as people can remember. It is a bill that prohibits throwing away lighted or burning material, which includes cigarette and cigars, on roads and railways in this State. I have been on the phone with people in Oregon doing some research, they can't imagine the state without this bill. They think that the bill has aided substantially in educating people not to do this. A state like Montana that dries up in the fall months and has a unfathomable riches tied up in ripe grain and feed forage, and timber, it seems like this kind of bill ought to be considered. Just in the Helena area last year there were five incidents where cigarettes thrown out of car window led to fires. Also fireworks, tossed out of windows cause immediate fires. This bill also applies to dumping of ashtrays. This is practice of convenience more than responsibility, and it is something that ought to be addressed. I would like to call your attention to page 2, line 14, currently in law you are prohibited from wearing hats or bonnets in theaters or public areas of amusement. You can be fined. We are not trying to add this particular provision in this bill, that is current law. I think that throwing of lighted or burning material that obviously cause fires every year in this state, probably should be a bigger offense than wearing a bonnet or a hat. This bill would provide a minimum \$100 dollar fine, and that is all the bill does. I hope if the committee finds favor with this we could use it as an educational effort save some of our Natural Resources.

Proponents' Testimony:

Les Graham, I would like to tell a story about an experience that I had a number of years ago. A cigarette started a fire that took out roughly between eight and nine hundred acres of winter pasture on a ranch. Those of you in the ranching business know how devastating that can be. The many years I have traveled the roads in Montana and you see this a lot. I stand in support of this bill and I hope you will too.

Cary Hegreberg, MT Wood Products, I would echo **REPRESENTATIVE HARPER,** I was surprised to learn that this was not already state law as well. I also happen to sit on the Keep Montana Green Association board of directors, a number of companies I represent encourage these efforts to keep forest resources out of jeopardy from burning material being thrown out of windows. There could be a real savings to the State of Montana in fire fighting costs. Thank you.

Jim Richard, MT Wildlife Federation, we support the bill, of course, because of the protection of Natural Resources, but I think even more importantly we understand that a large part of Montana is made up of private land and they would be effected the

most by these kind of fires. I would like to say this is a good idea. Thank you.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR ARNIE MOHL, what kind of trash is considered littering? Don't we have a litter law now?

Colonel Craig Reap, MT Highway Patrol, yes we do. I think that the difference with this is that it pertains to lighted materials. I think a lot of people have the attitude that if throw the cigarette out it will burn itself out, so its not considered littering.

SENATOR MOHL, you issued four citations in 1996 for this type of violation. If you could issue citations then why is this necessary?

Colonel Reap, there is a section in current law now that pertains to forested areas. That is probably what those were.

SENATOR MOHL, the fiscal note says there would be minimal impact to the Department of Justice. What do you mean by minimal?

Colonel Reap, it is just an other citation to write. There would be no equipment necessary, or have additional people.

SENATOR REINY JABS, does this carry a bigger fine than littering?

REPRESENTATIVE HARPER, yes there is a bigger fine.

SENATOR "SPOOK" STANG, if I throw out my cigar on my own driveway, will I be subject to the fine?

REPRESENTATIVE HARPER, you would be according to the law. Do you have a right to light an uncontrolled fire on your own property with other property around you?

SENATOR STANG, does this also apply to parking lots?

REPRESENTATIVE HARPER, I believe it does.

SENATOR LARRY BAER, you talk about a minimum of a \$100 fine. Is there a maximum?

REPRESENTATIVE HARPER, I believe that left to the discretion of the judge.

Closing by Sponsor: REPRESENTATIVE HARPER, there was an amendment added in the House to allow the dropping of safety flares from railroad cars. We anticipate no extra cost and a possible savings. Thank you for your time.

EXECUTIVE ACTION ON HB 290

Motion/Vote: SENATOR JABS made a motion that HOUSE BILL 290 BE CONCURRED IN. PASSED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 93

Amendments: HB009301, (EXHIBIT 1)

Motion: SENATOR GREG JERGESON, moved CONCURRENCE IN HB 93.

Motion: SENATOR MOHL moved AMENDMENT HB009301. This amendment precludes the department from funding the signs and only makes them liable for putting them up. Do you have a problem with that?

Discussion:

John Blacker, I appreciate that amendment.

Brian Cockhill, Director MT Historical Society, I think that has already been thought of, as far as putting the money in the General Fund. We are designated by the accommodations tax statute to receive one percent of the total proceeds of that statute, which currently amounts to about \$85,000 a year. We are charged by law with expending that on historic signs, or the maintenance of historic buildings. Those are the only two things we can spend that money on. A bill like this, if it is passed by the legislature, would be very common for the people benefiting from the bill to come back to the society and ask us put up interpretive signs, which we would do over a period of time. Should you concur with this legislation we would be happy to put up signs over a period of two or three years.

SENATOR MOHL, I am not asking if you put them up, I am asking if you manufacture the signs according to the departments specifications as far as safety is concerned?

Brian Cockhill, we work with the Department of Transportation anyway, and we always agree on signing and they always put the signs up and if they need to be replaced, they talk to us about providing the funds for that.

Vote: the amendment CARRIED UNANIMOUSLY.

Motion/Vote:

SENATOR JERGESON MOVED HB 93 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY.

HEARING ON HB 99

Sponsor: REPRESENTATIVE CLIFF TREXLER, HD 59, Corvallis

Proponents:

Carl Schweitzer, MT Contractors Association
Darrell Holzer, MT State AFL-CIO
Gary Gilmore, MT Department of Transportation
Alicia Pichette, L & C County
Colonel Craig Reap, MT Highway Patrol
Ben Havdahl, MT Motor Carriers
Bob Worthington, Montana Municipal Insurance Association

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE CLIFF TREXLER, HD 59, Corvallis, HB 99 came to me while I was driving through Oregon last summer and came upon a work zone, and there was a sign, "fines doubled in work zone". It seems like in cars today that drive and ride so well, it is hard to pull one of them down to 25 miles an hour. I found out that there were 800 deaths in the United States last year because of people failing to slow down in work zones in construction areas. I think this is necessary. It is a waste of someone's life to be killed in a construction zone, or work zone, when it is obvious that we should slow down. I came up with this idea. What this bill does is double the fine from \$100 to \$200 dollars. One of the problems that we ran into, was where exactly the "work zone" was. One of the biggest complaints was brought about by SENATOR DEVLIN, who was traveling to Shelby and given a \$60 dollar fine when in fact he had seen no equipment and the signs were 22 miles apart, so this bill narrows it down so the signs will be put up no more than 500 feet on either side of the actual "work zone". The bill also allows for speed limits to be set, varying with the type of work that is being done. I will be available for questions.

Proponents' Testimony:

Carl Schweitzer, MT Contractor Association, we strongly support this bill. This is one of the eight items that we has on our legislative agenda, to increase the fines for traffic violations within a work zone. I think REPRESENTATIVE TREXLER did a very good job of explaining that there is a construction zone which would be the construction entire area, but we want to focus on the work zone, where people could get hurt. We strongly support this bill.

Darrell Holzer, MT State AFL/CIO, we offer our strong support for HB 99. There are over 800 fatalities nationwide simply because people will not recognize work zones and slow down. Anything that will bring those numbers down will be greatly appreciated. We encourage the committee to look favorably on this legislation. Thank you.

Gary Gilmore, MT Department of Transportation, we support this bill. Our workers are right out there along the contractors. The one thing that this bill does not provide, with that we will offer to do, is sign. This only states that the fines will be doubled. I believe that **REPRESENTATIVE TREXLER** stated that what caught his attention was the sign telling the driver that the fine was doubled.

Alicia Pichette, L & C County, we share our support for this legislation. The county does work on the smaller roads and there is a great danger. The signs are close to the road, and the roads are narrow, and people just don't slow down. The county is certainly in support. Thank you.

Colonel Craig Reap, MT Highway Patrol, we support this bill also. Construction zones are always a challenge for us, because of the limited number of officers. I think signs would act as a deterrent, and word would get out, and we would see speeds reduced. We certainly support this bill. Thank you.

Ben Havdahl, MT Motor Carriers, we support this bill.

Bob Worthington, Montana Municipal Insurance Authority, for the reasons already stated we support this legislation.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR GREG JERGESON, what is the difference between a construction zone and a work zone?

REPRESENTATIVE TREXLER, one of the problems that we see a lot is a construction zone may be any amount of size. An actual work zone is where the people are actually working. We tried to narrow this down so the signs would be within 500 feet of this actual work zone, where the machinery and people are actually working.

SENATOR "SPOOK" STANG, are these signs going to be placed at the beginning of the construction zone or at the beginning of each work zone?

REPRESENTATIVE TREXLER, that is exactly why the bill is here. You might enter a construction zone and it may say slow to 45 miles per hour. When you get to a work zone we would hope that you would see a sign that says fines will double in this work zone, and it will say 25 miles per hour. That means slow down now.

SENATOR STANG, will the tickets be issued at the beginning of the construction zone, or will the signs be there where they first have to go to 35 miles per hour, and that will be the place where the tickets are issued?

Colonel Reap, it used to be that all construction zones were 35 miles per hour. Last session there was a change that allowed the department to set the speed limit depending on the criteria. We would enforce the construction zone at the limit posted, and in the work zone between the signs we would enforce the lower limits posted and the fines would be double.

SENATOR STANG, so the intent of this bill is where you first enter the construction zone it would be the regular violation not the double fines?

Colonel Reap, that is the way I understand it.

SENATOR BOB DEPRATU, I think that the signs are an important part of educating the public and making this bill work. Are you saying that as a matter of policy that you would provide these signs, or do we need to amend that into the bill?

Gary Gilmore, my thinking was that at the beginning of the construction zones you tell people that fines will double in construction work zones. We would put one sign that warns about the fines at each end of the project, and signs that say reduce speed ahead, or signs lowering the speed limit to warn of work zones.

SENATOR LINDA NELSON, what about after hours when the people aren't working anymore. Will the signs be removed or will the law just not be enforced at that point?

Gary Gilmore, even when workers aren't present a hazard may still exist. We are signing for the hazard. Under the definition of work zone, without activity being there it probably doesn't apply.

SENATOR NELSON, maybe letter "C" needs to be looked at a little bit, because it says whether stuff is actually taking place. Maybe we ought to consider having it say when Work is under way.

SENATOR JERGESON, will you sign for when a work zone has ended so a person knows when they may resume speed, and what speed they are allowed to resume?

Gary Gilmore, we should be signing with a resume speed, or end speed zone. There should be speed limit sign if you come out of a work zone, back into a construction zone, and then when you leave the construction zone there would be a resume speed sign.

SENATOR STANG, when we set these speed zones do we use the rules of 85 percent? Maybe in light of fact that Montana has no posted speed limit we should use the law of common sense.

Gary Gilmore, we are wrestling with that right now. What we are talking about if there is a single lane with no work activity we would like to see 55 miles per hour.

SENATOR MOHL, on section 2, if I am in a work zone and they have a speed limit posted at 45 miles per hour. If a patrolmen thinks that 45 miles per hour is to fast, can he give me a basic rule ticket?

Colonel Reap, if the posted speed limit was 35 in that work zone, but there was a storm and the roads had iced up, an officer could give you a ticket. I think that in most cases the violation would be of the posted limit and not basic rule because it holds a bigger fine.

Closing by Sponsor: REPRESENTATIVE TREXLER, thank you for a good hearing. I will try to clear up where the signs are going to be. On page 2, line one it says the contractor shall clearly indicate the boundary of the work zone. We want to narrow this down so we know exactly where the work zone is. When you get to the work zone there needs to be a sign that says that. The double fines and misdemeanor is only in the work zone. Hopefully that is what the bill states. Thank you.

EXECUTIVE ACTION ON HB 202

Discussion: SENATOR MOHL, SENATOR JERGESON, asked a question about the mile post markers and I told him that they would have to be changed, but I was in error. They don't do that anymore.

John Blacker, MT Department of Transportation, on the issue of the mile markers, they are designated through U.S. routes. From the standpoint of HB 202, there will still be the U.S. mile markers there and that will stay the same.

Motion: SENATOR JOHN HERTEL, moved CONCURRENCE IN HB 202.

Discussion: SENATOR RIC HOLDEN, I had a chance to talk to some constituents on this bill, I asked them if they would like me to spend \$16,000 to designate Highway 3, and they laughed. I think that people don't want us to spend hard earned dollars on things like this.

SENATOR BOB DEPRATU, I am not comfortable with this. There is a lot of little businesses along these routes, I believe you have a chance of hurting them if you designate a specific route.

SENATOR HERTEL, is there anyone that can explain the \$16,000 figure on the fiscal note. If we are just putting up number 3 signs how many need to be put up. That seems like an exuberant figure.

John Blacker, the \$16,000 is an estimate for 60 signs. I believe that is the number of junctions were you come off other roads. To give you an indication, our contracted price per square foot of sign is \$12.50 to \$13.00. That number 3 sign will probably be a 2 foot by 3 foot sign that is \$75 a sign.

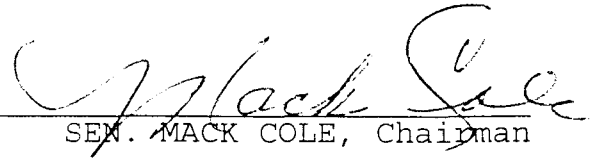
SENATOR STANG, there has been two or three attempts to build a new highway between Great Falls and Billings. I would like to see the money spent on fixing and maintaining roads rather than signing a road that is not needed.

SENATOR MOHL, you might have three signs on one post, and if you are to add these other signs you might have to add another post to meet safety standards. I am surprised that with sixty signs we got off this cheap.

Motion: SENATOR HOLDEN moved to TABLE HB 202. THE MOTION CARRIED WITH SENATOR JABS AND SENATOR HERTEL VOTING NO.

ADJOURNMENT

Adjournment: 4:27 PM


SEN. MACK COLE, Chairman


PHOEBE KENNY, Secretary

AM/PK