

MINUTES

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

Call to Order: By **SENATOR LINDA NELSON**, on March 11, 1997, at
3:50 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 464, HB 466; Posted 3/4/97
Executive Action: HB 202 and HB 320

HEARING ON HB 464

Sponsor: REPRESENTATIVE ALLEN WALTERS, HD 60, Hamilton

Proponents: None

Opponents:

Bob Gilbert, MT Automobile Dismantlers and Recyclers
Jerry Warren, South Side Auto Reconditioning
Loretta Miller, Green Meadow Auto Salvage
Bud Shane, Motor Vehicle Division
Harold Hansan, Hansan's Salvage
Ray Dietz, Dietz Auto and Truck Salvage

Curtis Johnson, A-1 Johnson
Bruce Fassler, Auto Farm
Dean Roberts, Department of Justice

Opening Statement by Sponsor:

REPRESENTATIVE ALLEN WALTERS, HD 60, Hamilton, House Bill 464 deals with the marking of vehicle titles and the assessing of vehicles. I will explain how a vehicle comes to have a branded title. In order to get a branded title, a vehicle has to be insured and totalled by the insurance company. When a vehicle is totalled by an insurance company, the state voids the title, and issues a salvage certificate. When that vehicle is repurchased from an insurance company or wrecking facility, the seller transfers the salvage certificate to the buyer. In order to maintain a new Montana title the buyer must have the vehicle inspected. At the time of inspection the buyer must furnish proof of purchase, as well as all invoices for any replacement parts put on the vehicle. When the state issues a new title on the vehicle, the title is marked "rebuilt salvage". When a title is marked rebuilt salvage it voids the warranty. Different states interpret salvage in different ways. Some regard salvage as not rebuildable. Many vehicles are not damaged in a way that would effect warranty covered items, but there is no allowance for that. Many factors contribute to the totalling of the vehicle, by an insurance company. Generally they are totalled based on dollar damage. An extensive repair does not mean that the car can never be repaired or safely driven. Many vehicles that are repaired at body shops every day have more severe damage than some totalled vehicles, and do not bear a marked title. Presently all totalled and repaired vehicles will have the titles marked rebuilt salvage. HB 464 would distinguish that marking by age of the vehicle. You will notice on page 1, lines 27 and 28, a "rebuilt salvage vehicle" means a vehicle five years old or older. A rebuilt vehicle means a salvage vehicle that is less than five years old. The title will still be marked but it was hoped that "rebuilt vehicle" rather than "rebuilt salvage" on the newer vehicle will have more of the warranty. Regardless of what term is used a branded title regularly reduces the value of the vehicle. Some banks are not willing to finance such a vehicle, and some dealers will refuse to take them as trade. The car or truck may look just like new but no one will pay as much for that vehicle that has a branded title. That brings us to page five of the bill, where we address the property tax of a vehicle. As you can see the new lines says "the purpose of assessing rebuilt salvage vehicles and rebuilt vehicles, the value must be 60% of amount that would be determined under section 1 C. I think everyone realizes a branded title lowers the value of the vehicle. The only entity that does not recognize that is the County Treasurer at license time. I will reserve the right to close.

Proponents' Testimony: None

Opponents' Testimony:

Bob Gilbert, MT Automobile Dismantlers and Recyclers, we oppose this bill as it is written. It is a well intentioned bill and attempts to solve a problem that is out there. Unfortunately it may result in more problems than it solves. It addresses only a portion of the vehicles that fall into the category that the sponsor talked about and leaves other vehicles out there that are not branded and maybe should be. I think the best solution is to let this bill die and let the groups involved work together to come up with legislation that addresses all of the motor vehicles that we are talking about.

Jerry Warren, South Side Auto Reconditioning, written testimony, (EXHIBIT 1).

Loretta Miller, Green Meadow Auto Salvage, written testimony, (EXHIBIT 2).

Bud Shane, Motor Vehicle Division, we handle the salvage vehicles in Montana. We do brand titles for vehicles that have been declared as total loss vehicles by insurance companies. That is one method by which we receive reports of salvage vehicles. An other method is from the licensed wrecker facilities. These are for junk vehicles. We don't have rule-making authority on how to brand these older titles. If this bill passes those vehicles reported to us as junk, we would have to determine if those vehicles fall with in the definition of a salvage vehicle. There is a difference between junk and salvage as defined by statute. That would present a problem to the department. It is true that many back yard rebuilders require wrecked vehicles from out of state wreckers. They are sold with clean titles. That is a problem that won't be resolved by this bill. I think we need stronger salvage laws.

Harold Hanson, Hanson Salvage, opposed the bill. The bill is wrong and unfair and should be killed.

Ray Dietz, Dietz Auto and Truck Auto Salvage, I oppose the bill.

Curtis Johnson, Johnson Auto Wrecking, I oppose the bill.

Bruce Fasser, Auto Farm, I oppose the bill.

Dean Roberts, Department of Justice, We opposed this bill based on the testimony you have hear.

Questions From Committee Members and Responses:

SENATOR LARRY BAER, I am a recent victim of a vehicle like this. The car was only cosmetically beautiful, but needs many repairs. How would your bill protect me.

REPRESENTATIVE WALTERS, apparently there is this problem where someone who is not insured can do whatever they want to a vehicle and the title will not get branded. I agree with all these people that this is not right. There is going to have to be something done.

SENATOR BAER, is there a possibility of amending your bill to cover these inadequacies.

REPRESENTATIVE WALTERS, at this point I think there needs to be a lot of work done on this. I agree with the opponents of this bill. I am willing to work on this but for know would like to see the bill go through seeing that the vehicle has been depreciated.

SENATOR BAER, you are with the Department of Justice. Is there any way to modify this bill to find justice for this type of situation?

Dean Roberts, I don't think it can be done in this bill.

Closing by Sponsor: **REPRESENTATIVE WALTERS**, I didn't realize what a can of worms this would open up. I thought that this would help people in the auto salvage business. I will have some amendments drafted. I don't know if there is anything you can do to stop criminal activity. I would sure like this committee to consider doing something about the property tax issue. All I would like to see the bill do now is change the recognized value by the County Treasurer so that these people who are trying to save money and buy a branded vehicle title, don't have to pay 100% of the property taxes. I think that is only fair. It is a fairness issue.

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HEARING ON 466

Sponsor: **REPRESENTATIVE BEVERLY BARNHART, HD 29, Bozeman**

Proponents:

Ron Bray, City of Bozeman
Eric Griffen, Lewis and Clark County
Gary Gilmore, MT Department of Transportation

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE BEVERLY BARNHART, HD 29, Bozeman, I carried this bill because we are having some very interesting meetings in Bozeman between the cities and counties. Out of those meetings have come some ideas for legislation. This would allow a local government to select from a group of engineers to have a traffic engineering report done. That engineer would report to the

department, and the department, within 120 days would make their decision. The cost would be borne by the local government.

Proponents' Testimony:

Ron Bray, City of Bozeman, I am here in support of HB 466. The bill does allow local government to request a speed study from either the MT Department of Transportation or from a pre-qualified licensed professional engineer. If a private engineer is selected the cost is borne by them. We feel that the bill is needed in Bozeman for a couple reasons. There are only two people on staff to conduct these studies state-wide. The effect of the departments work load has led to these studies lasting 2 years or longer. What we are confronted with is new traffic patterns everyday. This addresses the needs of the department and of local government. There is nothing in the bill that changes the way that speed limits are set. I encourage a positive recommendation from the committee.

Eric Griffin, Lewis and Clark County, I speak for the county and urge your support for HB 466. Thank you.

Gary Gilmore, MT Department of Transportation, we worked with the city of Bozeman to come up with the bill. We amended the bill to fix some of the glitches. We do have a problem with our speed zoning system. We presently have over 86 requests for studies. Our present staff level only allows for 25 studies a year from our department. We see this bill as a way for us to catch up. We support this bill and think it is very workable for local governments and the department. Thank you.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR GREG JERGESON, if this bill passes and jurisdictions that want speed studies done are going to have to pay for them, what is to stop you from reassigning your current engineers to do something else?

Gary Gilmore, the city does not have to go this route. They can still have us perform the study. It will just take longer. We don't address the time problem very well.

SENATOR ARNIE MOHL, If I wanted to check the speed limit between Polson and Kalispell could I put a speed limit on that if I hired an engineer. What do you mean by local authority?

Gary Gilmore, under our present regulations the highway commissions authority is based on a hazardous situation that would warrant the driver to slow down. Their authority is limited to short zones. I would say no, that is not an option.

SENATOR MOHL, in other words your law would supersede what we are doing here.

Gary Gilmore, if you look at the first paragraph, that is where it is. The commission may only set speed limits at hazardous areas. This bill only gives the authority to have a study done.

SENATOR BOB DEPRATU, are you familiar with an area like Highway 40. If the city of Columbia Falls wants to extend the speed limit to Whitefish, how far out would the highway department consider putting a speed limit on.

Gary Gilmore, how far a speed limit goes is based on how the drivers react when they are driving on that piece of road. The fact that the local government may want to reduce the speed limit does not mean that the speed limit will be reduced. It is based on what is called the 85th percentile. Signs don't slow people down, you must have enforcement.

SENATOR DEPRATU, what do you think it will cost a local government for a traffic study?

Gary Gilmore, I can't tell you. It would depend on the engineer that was chosen and the equipment used.

SENATOR HOLDEN, how do you envision this working. If you are having problems hiring someone yourself?

Gary Gilmore, we envision the committee that will be put together consists of two representatives from the department to set the criteria that is needed.

SENATOR STANG, if we took out, "at its own expense" would the department still be in favor of this bill.

Gary Gilmore, no.

SENATOR NELSON, Why didn't you sign the fiscal note.

Closing by Sponsor:

REPRESENTATIVE BARNHART, I did not understand the fiscal note so I did not sign it. What we want to do is speed up this process for the safety of the people. Thank you for a good hearing.

EXECUTIVE ACTION ON HB 320

Motion: SENATOR JERGESON MADE A MOTION TO CONCUR WITH HB 320.

Motion: SENATOR JERGESON MADE A MOTION TO AMEND HB 320 BY ON PAGE 3, LINE 1 AND 2 STRIKING 500 AND INSERTING 2,000. I have been looking through the list of public utilities that would be affected at various levels. I think when you get up to the 2,000 level, those are cities that have their own engineers, and know

what kind of issues are involved. Towns smaller than that are simply at the mercy of forces outside their own control.

Discussion:

SENATOR STANG, are you talking 2,000 service connections or a population of 2,000?

SENATOR JERGESON, 2,000 service connections.

SENATOR MOHL, I would have to object to that. I think if we are going to 2,000 we might as well include Flathead County, and Laurel, and Lewistown. I think the committee did a good job. Their intent was to catch the few unincorporated town and I think that is what they did.

SENATOR STANG, I don't see where it has to be an unincorporated town. I guess that bothers me because I do look at some towns in my district that are towns of about the size of 1,000 that have over five hundred subscribers, that I know can't afford to fix a pot hole. I guess I have mixed emotions that 2,000 might be too much and 500 being too little. I could see 1,000 fitting in very well. At this point I guess I will support the amendment.

SENATOR DEPRATU, I think that I would have to go against the amendment. Five hundred is generally an area that is starting to develop enough cash flow in a situation like this that they should be able to build some reserves. I am not sure we can cover everything for everyone. I think this is a reasonable figure to be at.

SENATOR HOLDEN, **SENATOR JERGESON**, hit the point exactly on the mark. When you have a city that does not have an engineering department, does not have the property tax base, and then state government makes a decision that they are going to move the sewer system, you don't have a lot of control over what will happen. Look at Scoby, 640 services, they do not have a lot of cash flow. I will support **SENATOR JERGESON'S** amendment whole heartedly.

SENATOR MOHL, How did you come up with the figure of 500?

Gary Gilmore, the 500 was arrived at by the task force, not by the Department of Transportation. Currently all utilities which are included on that page, pay 25%. That is current statute. This was a compromise that was arrived at with the task force. There were several other compromises in there. No one got everything they wanted. The 500 gives quite a lot to the smaller towns.

SENATOR HOLDEN, I have a distinct recollection from the testimony that there was not a method used to come up with 500. The man said that he had guessed. We have figures right here that we can analyze where these cities sit.

SENATOR STANG, under current law if the department goes in and digs up a street and moves the water mains, everybody has to pay 25% no matter the size of the city?

Gary Gilmore, yes.

SENATOR STANG, if this law passes, the only people that don't have to pay 25% are those people who have less than 500 hookups, is that correct.

Gary Gilmore, yes.

SENATOR DEPRATU, from reading the papers about the project in Eureka, they rebuilt their systems up there and paid the 25%, is that correct?

Gary Gilmore, yes. That is correct.

SENATOR MOHL, when they do rebuild, these cities are getting a complete new system for 25% of the cost. They do benefit from it.

SENATOR JERGESON, the task force did not include representation from any cities. I suspect when you look at the list of communities there would have been any number of cities with hookups between 500 and 2,000 that would have taken a greater interest in it. I think we should look out for local taxpayers.

Vote: On a roll call vote **SENATOR STANG, SENATOR JERGESON, AND SENATOR HOLDEN VOTED YES. MOTION FAILED 7 to 3.**

Motion: **SENATOR HOLDEN, MOVED TO CHANGE IT FROM 500 TO 1,000.**

Discussion:

SENATOR STANG, I think I am missing something here. If this bill didn't pass, what expenses will any city have to pay?

Gary Gilmore, under current law, the department pays 75% of all costs including engineering costs.

SENATOR STANG, If there was not a town size exemption in this bill what would the department be paying 75% of.

Gary Gilmore, everything but the engineering costs.

SENATOR STANG, every town under 500 will have to pay the engineering costs and the department will pay 75% of all other costs.

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Gary Gilmore, that is correct, but in most cases we do the engineering and we don't include the cost. It is part of our design work and we don't break it out specially.

Vote: On a roll call vote, to amend from 500 to 1,000 SENATOR HOLDEN, SENATOR JERGESON, SENATOR NELSON, AND SENATOR STANG VOTED YES. THE MOTION FAILED 6 to 4.

Motion: SENATOR JERGESON WITHDREW HIS MOTION TO CONCUR IN HB 320 AND SENATOR DEPRATU MOVED TO CONCUR IN HB 320.

Vote: On a roll call vote, SENATOR JERGESON VOTED NO. MOTION PASSED 9 to 1.

EXECUTIVE ACTION ON HB 202

Motion: SENATOR STANG MOVED TO RECONSIDER ACTION ON HB 202.

Vote: Passed Unanimously

Motion: SENATOR STANG MOVED A DO CONCUR WITH HB 202.

Discussion:

SENATOR HOLDEN, could you explain your philosophy behind the amendments.

Marv Dye, MT Department of Transportation, as I understood the bill it seemed that there was clearly legislative intent that we don't sign those sections of Highway 3 as Highway 3. From time to time we need to replace worn out signs, so we suggested during the normal course of business to add Highway 3 where it was appropriate.

SENATOR MOHL, how long will it take to replace these signs?

Marv Dye, conceivably it could be over ten years.

SENATOR DEPRATU, are you saying that the sign that would be replaced would say Highway 3 plus the present highway number?

Marv Dye, yes.

SENATOR HERTEL, on the maps that we purchase or obtain, how will they read?

Marv Dye, I am not exactly sure what would happen to the map. I think only one designation ends up on the map. The maps might not be correct now.

SENATOR BAER, how will this amendment affect our fiscal note?

Marv Dye, I would think it would be negligible.


Vote: Motion CARRIED.

Motion: SENATOR STANG MOVED HB 202 AS AMENDED.

Vote: MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 5:15



SEN. LINDA NELSON, Chairman



PHOEBE KENNY, Secretary

LN/PK