

**SENATE JOURNAL
57TH LEGISLATURE
THIRTEENTH LEGISLATIVE DAY**

Helena, Montana
January 17, 2001

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Pro Tempore McNutt presiding. Invocation by Pastor Brenda Satrum Peterson of Our Redeemer Lutheran Church. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Grosfield Mohl, excused. Quorum present.

Mr. President Pro Tempore: We, your committee on Bills and Journal, having examined the daily journal for the seventh legislative day, find the same to be correct.

Miller, Chairman

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman): 1/17/2001
Correctly printed: SB 40, SB 44, SB 103, SB 120, SB 122, SB 133, SB 157, SB 159, SB 165, SB 204, SB 256, SB 257,
SB 258, SB 259, SB 260, SB 261, SB 262, SB 263, HB 17.
Correctly engrossed: SB 1, SB 12, SB 59.

BUSINESS AND LABOR (Taylor, Chairman): 1/17/2001
SB 142, do pass. Report adopted.

FISH AND GAME (Sprague, Chairman): 1/16/2001
SB 104, introduced bill, be amended as follows:

1. Page 2, line 22.

Strike: "Restrictions on hunting with dogs"

Insert: "Dogs -- restrictions on hunting -- penalty for chasing hooved game animals"

2. Page 2, line 23.

Strike: "subsection"

Insert: "subsections"

Following: "(2)"

Insert: "and (3)"

3. Page 2, line 28.

Strike: "Any"

Insert: "Except as provided in subsection (2), any"

4. Page 3, line 1.

Strike: "A"

Insert: "Except as provided in subsection (2), a"

5. Page 3.

Following: line 7

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Insert: "(2) A person may use trained or controlled guard dogs to chase or herd away game animals or fur-bearing animals to protect humans, livestock, or agricultural products, including growing crops and stored hay and grain. The dog may not be destroyed pursuant to subsection (1)(c)."

Renumber: subsequent subsections

6. Page 3, line 23.

Following: "livestock"

Insert: ", in a normal agricultural practice, in cultivation of a lawn or garden, "

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Holden, Vice Chairman):
SB 58, introduced bill, be amended as follows:

1/17/2001

1. Title, page 1, line 9.

Strike: "SECTION"

Insert: "SECTIONS 15-70-330 AND"

2. Page 1.

Following: line 21

Insert: "Section 3. Section 15-70-330, MCA, is amended to read:

"15-70-330. Special fuel penalties. (1) In the case of a special fuel user who refuses or fails to file a return required by this part within the time prescribed by 15-70-103 and 15-70-325, there is imposed a penalty of \$25 or a sum equal to 10% of the tax due, whichever is greater, together with interest at the rate of 1% on the tax due for each calendar month or fraction of a month during which the refusal or failure continues. However, if any special fuel user establishes to the satisfaction of the department that the failure to file a return within the time prescribed was due to reasonable cause, the department shall waive the penalty provided by this section.

(2) Whenever a special fuel user files a return but fails to pay in whole or in part the tax due under this part, interest at the rate of 1% ~~per~~ a month or fraction of a month from the date on which the tax was due to the date of payment in full must be added to the amount due and unpaid.

(3) (a) A special fuel user may not use dyed special fuel to operate a motor vehicle upon the public roads and highways of this state unless the fuel is subject to taxation under 15-70-321(1)(b) or the use is permitted pursuant to rules adopted under subsection (3)(b). The purposeful or knowing use of dyed special fuel in a motor vehicle operating upon the public roads and highways of this state in violation of this subsection is subject to the civil penalty imposed under [section 2] for the first offense. A subsequent offense is a misdemeanor punishable by a fine not to exceed \$500 upon conviction for the first offense, not to exceed \$1,000 upon conviction for the second offense, and not to exceed \$2,000 for each subsequent conviction as provided in 15-70-336. Each use is a separate offense.

(b) The department shall adopt and enforce reasonable rules for the movement of off-highway vehicles traveling from one location to another on public highways, public roads, or streets when using dyed fuel or nontaxed fuel.

(4) The operator of the vehicle is liable for the tax imposed in 15-70-321. If the operator refuses or fails to pay the tax, in whole or in part, the seller of the special fuel is jointly and severally liable for the tax imposed under 15-70-321 and for the penalties described in this section if the seller knows or has reason to know that the fuel will be used for a taxable purpose.""

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

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JUDICIARY (Grimes, Vice Chairman): 1/17/2001
SB 217, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 1/16/2001

HB 44, introduced by Haines
HB 138, introduced by Mangan
HB 154, introduced by McGee
HB 172, introduced by L. Holden

MOTIONS

SB 49 - Senator Doherty moved that Noennig and Ryan be added as sponsors to **SB 49**. Motion carried.

SB 148 - Senator Tester moved consideration of **SB 148**, on second reading this legislative day, be passed for the day. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 264, introduced by Waterman, referred to Taxation.
SB 265, introduced by Hargrove, Balyeat, Berry, Bohlinger, DePratu, Ekegren, Franklin, Gillan, Hedges, Jent, Keenan, Laible, Lewis, Mahlum, McNutt, Mohl, O'Neil, Stonington, F. Thomas, Vick, Wanzenried, J. Wells, C. Younkin, Zook, referred to Local Government.
SB 266, introduced by Ellingson, Bohlinger, Buzzas, Cocchiarella, Doherty, Facey, Gallus, Gutsche, Halligan, Hurdle, Kaufmann, Newman, Shea, Stonington, Toole, Wanzenried, Waterman, referred to Judiciary.
SB 267, introduced by Ekegren, referred to Highways and Transportation.
SB 268, introduced by Hargrove, Berry, Bookout-Reinicke, Elliott, Grosfield, Halligan, Mahlum, Stapleton, Stonington, Tash, Vick, Wanzenried, J. Wells, C. Younkin, referred to Taxation.

The following House bills were introduced, read first time, and referred to committees:

HB 44, introduced by Haines (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.
HB 138, introduced by Mangan (by request of the Department of Commerce), referred to Business and Labor.
HB 154, introduced by McGee (by request of the Department of Transportation), referred to Business and Labor.
HB 172, introduced by L. Holden, referred to Business and Labor.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Franklin in the chair.

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Mr. President Pro Tempore: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 1 - Senator Grimes moved SB 1 do pass. Motion carried as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Cobb, Cole, Crismore, DePratu, Ekegren, Elliott, Ellis, Glaser, Grimes, Hargrove, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Nelson, O'Neil, Pease, Roush, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Waterman, Wells, Zook, Mr. President.
Total 38

Nays: Christiaens, Cocchiarella, Doherty, Ellingson, Franklin, Halligan, Harrington, Ryan, Shea, Toole.
Total 10

Absent or not voting: None.
Total 0

Excused: Grosfield, Mohl.
Total 2

SB 12 - Senator Nelson moved SB 12 do pass. Motion carried unanimously.

SB 40 - Senator Christiaens moved SB 40 do pass. Motion carried unanimously.

SB 44 - Senator Bishop moved SB 44 do pass. Motion carried unanimously.

SB 103 - Senator Zook moved SB 103 do pass. Motion carried unanimously.

SB 120 - Senator Tester moved SB 120 do pass. Motion carried unanimously.

HB 17 - Senator Jergeson moved HB 17 be concurred in. Motion carried unanimously.

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Pro Tempore McNutt in the chair. Chairman Franklin moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 59 passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 47

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Nays: Grimes.
Total 1

Absent or not voting: None.
Total 0

Excused: Grosfield, Mohl.
Total 2

SB 122 passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Grosfield, Mohl.
Total 2

SB 133 passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Grosfield, Mohl.
Total 2

SB 157 passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague,

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Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Grosfield, Mohl.
Total 2

SB 159 passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 46

Nays: Cobb, Miller.
Total 2

Absent or not voting: None.
Total 0

Excused: Grosfield, Mohl.
Total 2

SB 165 passed as follows:

Yeas: Berry, Bishop, Bohlinger, Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Grosfield, Mohl.
Total 2

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SB 204 passed as follows:

Yeas: Berry, Bishop, Bohlinger, Christiaens, Cobb, Cocchiarella, Cole, Crismore, DePratu, Doherty, Ekegren, Ellingson, Elliott, Ellis, Franklin, Glaser, Grimes, Halligan, Hargrove, Harrington, Holden, Jergeson, Johnson, Keenan, Kitzenberg, Mahlum, McCarthy, McNutt, Miller, Nelson, O'Neil, Pease, Roush, Ryan, Shea, Sprague, Stapleton, Stonington, Tash, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 47

Nays: Butcher.
Total 1

Absent or not voting: None.
Total 0

Excused: Grosfield, Mohl.
Total 2

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, January 18, 2001. Motion carried.

Senate adjourned at 1:47 p.m.

ROSANA SKELTON
Secretary of Senate

WALTER MCNUTT
President Pro Tempore of the Senate