

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
57th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON TRANSPORTATION**

**Call to Order:** By **CHAIRMAN ROGER SOMERVILLE**, on March 14, 2001  
at 3:00 P.M., in Room 472 Capitol.

**ROLL CALL**

**Members Present:**

Rep. Roger Somerville, Chairman (R)  
Rep. Sylvia Bookout-Reinicke, Vice Chairman (R)  
Rep. Darrel Adams (R)  
Rep. Joe Balyeat (R)  
Rep. Debby Barrett (R)  
Rep. Ronald Devlin (R)  
Rep. Dave Gallik (D)  
Rep. Steven Gallus (D)  
Rep. George Golie (D)  
Rep. Donald L. Hedges (R)  
Rep. Jim Keane (D)  
Rep. Gary Matthews (D)  
Rep. William Price (R)  
Rep. Allen Rome (R)  
Rep. Frank Smith (D)  
Rep. Donald Steinbeisser (R)  
Rep. Karl Waitschies (R)

**Members Excused:** Rep. Carol C. Juneau, Vice Chairman (D)

**Members Absent:** None.

**Staff Present:** Donna Huffman, Committee Secretary  
Leanne Kurtz, Legislative Branch

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 348, SJR 6, SB 293  
03/14/01.

Executive Action: SJR 6.

HEARING ON SB 348

Sponsor: Senator Jim Elliot, SD 36.

Proponents: Russ Ritter, Montana Rail Link; Triel Culver, Attorney for Montana Rail Link; Raymond Nelson, Self; Gary Shanks, Self; Pat Keim, Director of State Government Affairs for Burlington Northern Santa Fe Railway; Craig Gilchrist, Chairman of Montana State Legislative Board for Brotherhood of Locomotive Engineers; Fran Marceau, State Director of the United Transportation Union.

Opponents: Zander Blewett, Representing Arla Jean Murray, Miles City, Montana; Al Smith, Montana Trial Lawyers Association.

Informational Witnesses: none.

Opening Statement by Sponsor:

**Senator Elliot** said in the bill, on Page 2, the portion of the law that is preceded by "a railroad company is guilty of a misdemeanor if it allows a locomotive to approach any highway, road, or railroad crossing without the locomotive sounding the horn", they would like to change the language to insert "public". This liability concerns the railroads that sound their horns at every required crossing.

Proponents' Testimony:

*{Tape : 1; Side : A; Approx. Time Counter : 5.7}*

**Russ Ritter** said this bill clarifies by saying the railroad will continue to blow whistles at all public crossings. The law does say that the railroad will blow the whistle at public crossings. If someone wanted the train whistle blown at a private crossing for safety reasons, they can request that of the railroad.

**Triel Culver** said the purpose of this bill is clarification of the law. This statute was enacted in 1873, prior to when Montana became a state. In 1873, there were no private crossings, every road was open to the public. Every railroad since then has made a distinction between private crossings which exist only by license and public crossings. The intent is that it always applied only to public crossings, this bill clarifies that. The engineers or train crews would still have an obligation to blow the train whistle at private crossings. It is their duty to keep a proper look out at those crossings. In amending this statute to only apply to a public crossing, it does not relieve the

engineers' or train crews' responsibility to make sure the public is safe when they do use the private crossing. Historically, this statute has never been enforced by any Montana Law Enforcement Agency as far as it applies to private crossings. No railroad has ever been cited for failure to blow the train whistle at a private crossing. The amendment adopted in the Senate states, if the owner or permit holder of a private crossing makes a written request to a railroad corporation to have a locomotive horn and bells sounded at a crossing, the railroad shall comply with that request. This amendment basically allows individuals to decide what they want at their crossing. He said SB 348 provides a choice for individuals at those private crossings.

***{Tape : 1; Side : A; Approx. Time Counter : 21.4}***

**Raymond Nelson** said none of the surrounding states, such as Idaho, Washington, North Dakota, require trains to blow whistles at private crossings. The Environmental Impact Statement on the Internet said a lot about public crossings but not much about private crossings, which are about one-third of the crossings in the United States. It also stated there are too few accidents at private crossings to provide statistics. He supports SB 348.

**Gary Shanks** said he lives in Havre, Montana, which is a terminal crew change for the railroad. In October 1999, the trains began blowing whistles at the crossing there. He said this is very annoying because this disturbs not only him, but also his neighbors to have the train whistles blowing that close to them. He supports SB 348.

**Pat Keim** said they support SB 348. He said this law was adopted around the turn of the century and remained unchanged. It does not specify public or private crossings. This bill clarifies legislative intent and if adopted, would reflect the rule in surrounding states. It would allow owners of private crossings to request the whistle be sounded at their crossing. **EXHIBIT(trh58a01)**.

***{Tape : 1; Side : B; Approx. Time Counter : 4.6}***

**Craig Gilchrist** said they support SB 348. After careful consideration, they believe it will provide necessary measures of safety between the motoring public and railway bond track equipment.

**Fran Marceau** said he has been contacted by several Union members and land owners near the tracks and is in support of SB 348.

**Opponents' Testimony:**

**Zander Blewett** said Arla Jean Murray's husband Frank was killed outside Miles City at a crossing that Burlington Northern deemed to be private and did not have whistle posts, and did not sound the whistle. This is not an issue of anything but safety for motorists. He said, if there is any person who does not want a whistle blown at any private crossing, and if that person has made the determination who uses that crossing, they can write to the railroad to not sound the whistle at that private crossing. The Federal Railway Administration has passed regulations that now say, but are not yet in effect, the railroad must sound the whistle at all public crossings from 1320 feet, where the railroad has their whistle posts, which allows 20 seconds of warning, and they decided that is appropriate. He said the law should be the same, sound the whistle for all crossings, public and private.

**{Tape : 1; Side : B; Approx. Time Counter : 19}**

**Al Smith** said this is an issue of safety, and with amendments they proposed, those people who have a problem with the whistle blown at these crossings, can request the whistle not be blown there. The amendments proposed would permit requests by property owners that locomotives not sound their horns at private road crossings. **EXHIBIT (trh58a02)**.

**Questions from Committee Members and Responses:**

**Rep. Waitschies** asked **Mr. Keim** how private crossings are established. **Mr. Keim** said a private crossing is not carried on the register of public crossings, records are kept by the Department of Transportation.

**Rep. Waitschies** asked **Mr. Keim** how a public crossing is constructed. **Mr. Keim** said a public crossing is a crossing that is under the responsibility of the Department of Transportation, the County Road Department, or the City Street Department.

**Rep. Gallik** asked **Mr. Keim**, with regard to private crossings, who would write to the railroad if they desire to have the whistle not blown. **Mr. Keim** said the owner of that private crossing.

**Rep. Gallik** asked **Mr. Keim** in regards to private crossings, if you do not know who the owner is of that private crossing, there is no one to make a request, is that correct. **Mr. Keim** said that is correct.

**{Tape : 2; Side : A; Approx. Time Counter : 0.3}**

**Rep. Hedges** asked **Mr. Keim**, in small communities, is the whistle blown at each crossing, even if the crossings are close together. **Mr. Keim** said the law requires the whistle be blown at all crossings, and it could be a possibility, if the crossings are close together, the whistle could be sounded all the way through the town.

**Rep. Devlin** asked **Mr. Keim** if he had any statistics on accident rate in Montana for private versus public crossings. **Mr. Keim** provided information from 1998 and 1999 for Public to Private Crossing Collisions. **EXHIBIT (trh58a03)**.

**Rep. Bookout-Reinicke** asked **Mr. Keim** if any crossing on a county road that is maintained, would it be considered a public crossing, or could it have been a private crossing. **Mr. Keim** said this is a continuing problem for the railroads in determining if some roads are private or public crossings.

**Rep. Gallik** asked **Mr. Ritter** if the intent of this is to clarify the law of when to blow the train whistle and when not to. **Mr. Ritter** said that is correct.

*{Tape : 2; Side : A; Approx. Time Counter : 11.2}*

**Chairman Somerville** asked **Mr. Keim** in referring to the distance from the whistle post and a crossing, there are different types of trains, such as Amtrak, a grain train, and switching engines, where does the whistle stop for those three types of engines, and how does the engineer determine when to blow the whistle, or if there are multiple signs up. **Mr. Keim** said there are not multiple signs, there is one sign. He said the rules require that the whistle is sounded at the whistle post.

**Closing by Sponsor:**

**Senator Elliot** said this bill is not a railroad bill, it is a citizen's bill. The railroads are not asking to be excused from liability. He urged a Do Concur.

**HEARING ON SJR 6**

**Sponsor:** Senator Bob DePratu, SD 40.

**Proponents:** Dave Galt, Director of Montana Department of Transportation.

**Opponents:** none.

**Informational Witnesses:** none.

**Opening Statement by Sponsor:**

**Senator DePratu** said this bill requests an Interim Committee be assigned to study and revise traffic codes to provide clarity and uniformity.

**Proponents' Testimony:**

**Dave Galt** said in taking a look at a whole section of traffic codes, it is best to bring them all together and take a look at the codes to clean them up and get them up to speed.

**Opponents' Testimony:** none.

**Questions from Committee Members and Responses:**

*{Tape : 2; Side : A; Approx. Time Counter : 27.2}*

**Chairman Somerville** said to **Mr. Galt**, Title 61, Chapter 8, does contain bicycles, he asked if it was also intended to have bicycles studied. **Mr. Galt** said the intent was to look at all the traffic laws that are in Title 61, Chapter 8.

**Rep. Gallik** asked **Mr. Galt** if there are uniform vehicle codes and will those be the starting point to review our vehicle codes to make them in compliance with the rest of the nation. **Mr. Galt** said yes, and they would like to bring attention to those that are not in compliance.

**Rep. Hedges** asked **Brenda Nordlund, Department of Justice**, what the main areas included in the traffic codes are. **Ms. Nordlund** said it is a review of Chapter 8, which includes traffic control devices, vehicle operating requirements, the DUI laws, bicycle traffic, pedestrian traffic and enforcement of penalties.

**Closing by Sponsor:**

*{Tape : 2; Side : B; Approx. Time Counter : 0.3}*

**Senator DePratu** said with recreation and use of bicycles, he feels it would be good to have that included in this study. It is very practical and urges a Do Concur.

**EXECUTIVE ACTION ON SJR 6**

**Motion/Vote:** REP. GALLIK moved that SJR 6 BE CONCURRED IN. Motion carried 18-0.

Rep. Somerville will carry SJR 6 to the House.

A letter dated March 16<sup>th</sup>, 2001, was handed in on April 9<sup>th</sup>, 2001 from Montana Department of Transportation concerning SJR 6. The letter stated: Based on sections of the Montana Code Annotated not meeting current practices, outdated sections, ambiguities, and omissions, the Montana Department of Transportation requested a review of Title 61, Chapter 8 TRAFFIC REGULATIONS, as reflected in Senate Joint Resolution 6. **EXHIBIT** (trh58a12).

**HEARING ON SB 293**

**Sponsor:** Senator Steve Doherty, SD 24.

**Proponents:** Brenda Nordlund, Department of Justice; John Shontz, Montana Newspaper Association; Chuck Notbohm, American Association of Retired Persons.

**Opponents:** none.

**Informational Witnesses:** none.

**Opening Statement by Sponsor:**

*{Tape : 2; Side : B; Approx. Time Counter : 2.3}*

**Senator Doherty** said this bill is intended to do a couple of things. In 1994, the Federal Driver Privacy Protection Act was passed, this Act passed through the Congress and dealt with privacy of certain information that people could obtain from drivers licenses. In Montana, we have a strong privacy provision in our state constitution, also, we have an equally strong, right to know provision in the constitution. This bill attempts to walk the line between the public's right to know certain information and our right to keep other information private. Also, it attempts to keep in line with the federal mandates. It deals with highly restricted information. In Section 6, a person's social security number, medical disability information and individual's photograph is only available to the person who is the subject of the record, another person or entity with the subject's expressed consent, a Federal, State or Local Government Agency, including the court or Law Enforcement Agency in carrying out its functions. Other information which includes name,

address and telephone number, is allowed information that would be released in Sections 5 and 7. There is an amendment that put into code a relationship between the Attorney General's Office and media in Montana with regard to release of certain information. The amendment that was proposed by the Montana media was adopted by the Senate, which dealt with release of information for criminal investigative purposes. This bill is a balance between people's right of privacy and a right to know.

***{Tape : 2; Side : B; Approx. Time Counter : 7.1}***

**Proponents' Testimony:**

**Brenda Nordlund** said this bill is about how the Motor Vehicle Division handles its records containing your personal information. This bill permits release of certain personal information such as a person's name, address, telephone number, and driver's license number for the purposes specified in sections 5 and 7. Access to highly restricted personal information such as a person's social security number, medical and disability information, and a person's photograph, is more controlled. **EXHIBIT(trh58a04)**. She handed out a copy of the Federal Driver Privacy Protection Act, **EXHIBIT(trh58a05)** and a proposed amendment, **EXHIBIT(trh58a06)**.

**John Shontz** said they support SB 293. He handed out a proposed amendment, **EXHIBIT(trh58a07)**, he said the purpose of this amendment is to allow a law enforcement agency to determine a that a driver's license photograph, for example, should be released to media for publication if the law enforcement agency deems it necessary to release or publish the photograph. Such a release is not prohibited by federal law.

**Chuck Notbohm** said the AARP supports SB 293.

**Opponents' Testimony:** none.

**Questions from Committee Members and Responses:**

***{Tape : 3; Side : A; Approx. Time Counter : 0.3}***

**Rep. Devlin** asked **Ms. Nordlund** what happens if an auto insurance company gets information for a person, and they pass that information on to a medical insurance company, or another party. **Ms. Nordlund** said the re-disclosure of information is governed by Section 9 of the bill. She said they could only re-disclose information to another party if it fits within the original purposes of the enumerated disclosures. They would have to maintain a record of the release and the purpose of the release.

**Rep. Bookout-Reinicke** asked **Senator Doherty** on Page 5, Section 8, Lines 4 and 6, if he would be opposed to an amendment, to put the word, "shall" instead of "may", in sub-section (2) after department, to make sure it is known who is getting this information. **Senator Doherty** said he would not oppose an amendment.

**Closing by Sponsor:**

**{Tape : 3; Side : A; Approx. Time Counter : 4.4}**

**Senator Doherty** said the amendment suggested by **Rep. Bookout-Reinicke** is important because it helps in keeping people's lives private, and in the same respect there is certain information that is public and should be available to people with legitimate purposes for using the information.

**ADJOURNMENT**

Adjournment: 5:30 P.M.

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REP. ROGER SOMERVILLE, Chairman

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DONNA HUFFMAN, Secretary

RS/DH

**EXHIBIT (trh58aad)**