

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By **VICE CHAIRMAN RIC HOLDEN**, on January 19, 1999
at 3:00 P.M., in Room 325 Capitol.

ROLL CALL

Members Present:

Sen. Arnie Mohl, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Bob DePratu (R)
Sen. John Hertel (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Glenn Roush (D)
Sen. Debbie Shea (D)
Sen. Spook Stang (D)
Sen. Daryl Toews (R)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Phoebe Olson, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 149, 1/19/1999
Executive Action: None

Sponsor: SENATOR ARNIE MOHL, SD 39, Kalispell

Proponents: Joe Mazurek, Attorney General
Craig Reap, Montana Highway Patrol
Mike Lawlor, representing Senator Crippen
Mick Robinson, Governor's Office

Marv Dye, Montana Department of Transportation
Bob Anderson, MSPOA
Thorm Forseth, MT Transportation Commission and
Rimrock Stages Inc.
Verner Bertelsen, MT Senior Citizens Association
Dorothea Bertelsen
Tom Harrison, MT AAA
Charlene Luckman
Richard Tatarka, RJ Tatarka Logging
Nickolus Murnion, Garfield County Attorney
Troy McGee, MT Police Association and MT Chiefs
Association
Sam Samson
Ray Myers
SENATOR GRIMES, SD 20, Clancy
Keith Olson
Bill Olson
Vern Kays
Tom Daubert, MT Traffic Education Association
Margie Lincoln

Opponents: Gary Balaz, County Attorney, Bozeman
Michael Was
Bob Runkel
Henry Stowe
Mark Cole
Walt Stieg, Steig & Associate Insurance
Lorna Karn, MT Farm Bureau
J.M. Milligan
Greg VanHorssen, State Farm
Dwight Easton, Farmers Insurance
Larry Barton, Watkins & Shepard Trucking
Brian Cavey, MT Motor Carriers

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 3:10}

SENATOR ARNIE MOHL, SD 39, Kalispell, stated in 1997 he had opposed the speed limit, but during the interim he had done some investigating. He remarked that he had drove from Missoula to Billings at a speed of 95 to 105mph. Only one car from Canada passed him. Coming back from Billings, he drove 85mph, the same speed many were traveling at. After driving around Montana, he concluded the average speed people were driving was 85mph on the Interstate during the daytime. On primary and secondary roads, he estimated people were driving 70-75mph. He did not find

anyone driving the night speed limit which was 55mph. The majority were driving 60-65mph. This experience led to his recommendations on the speed limit.

He explained that he then met with the Governor, Attorney General, and Colonel Reap of the Highway Patrol to reach compromise on a speed for the bill. They first approached the basic rule. They put in "visibility, weather, and roadway conditions", in place of reasonable and prudent. He announced that on Interstate projects or on Interstate roads the recommended speed limit was 75mph both day and night. He continued that they also recommended a 65mph limitation for urbanized areas with populations of 50,000 and over which covers Butte, Missoula, Billings and Great Falls. The reason for this was the concern about on and off ramps. They recommended primary and secondary highways at 70mph in the daytime and 65mph at night. One exception was proposed on Highway 93 providing for 65mph day and night from the Canadian border to the Idaho border, because Highway 93 has a higher accident and death rate than any other road in Montana.

The penalties asserted are the first 10mph over \$25, the next 10mph \$40, the next 10mph \$70, and any speed 31mph over the speed limit will be \$100. The first 10mph over in the daytime does not go on the driver's record or affect insurance. At night it goes to 5mph over. He claimed the penalty stayed the same but anything over 5mph at night and 10mph in the daytime goes on a persons record.

SENATOR MOHL, explained truck speed limits had changed, from trucks weighing 8,000 pounds and over to 1 ton factory rated, to allow for towing of horse trailers, boats, or whatever. The semitrailer or trailer combination was set at 65mph unless otherwise permitted.

He remarked there were a lot of out-of-state people driving our roads. He did not want people to use our state as a race track to prove how fast their cars could go. The lives they would take are those of our children, our families, or ourselves. We won't give them that chance if this bill is passed.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 3:20}

Joe Mazurek, Attorney General, Department of Justice, stated the Governor's office and the Department of Justice have advocated for a daytime numerical speed limit since the federal repeal in 1995. He alleged that since that time average speeds had

increased on Montana highways and the flow of traffic had become erratic. Also car crashes and fatalities had increased. He asserted that Montana no longer had a basic rule which was, in effect, the only speed restriction statute Montana had. Montanan's have expressed a growing concern about the erratic and unsafe driving on the highways, some even expressing fear. He contended the polls indicated that people recognized the need for and wanted a daytime numerical speed limit.

The difference between SB 133 and SB 149 is that SB 149 has a restriction on Highway 93. He believed this was needed because in 1994, 1/4 of the fatalities in the state occurred on Highway 93 from the Canadian line to the Idaho border. He stated he did not object to the urban district limit for communities more than 50,000.

He claimed the most important thing was a numerical limit posted particularly during the daytime. He urged the committee to work with the Department of Transportation. He believed it was critical to have this legislation in place in time for the summer tourist season. He also urged the committee to carefully consider the truck limits.

Craig Reap, Chief of Montana Highway Patrol, submitted **EXHIBIT (his14a01)** as written testimony.

Mike Lawlor, representing President Bruce Crippen, stated President Bruce Crippen supported this bill and asked the committee to support this bill.

Mick Robinson, representing Governor Racicot, said although the bill had changed from the draft legislation originally proposed by the Governor and Attorney General, the bill did provide reasonable and enforceable numerical speed limits for vehicle travel on Montana highways. He claimed the governor saw this as a critical issue for passage in this legislative session. He announced the Department of Transportation employees were here to answer questions regarding the fiscal impact. He alleged that certainly fiscal issues should not drive the structure of this legislation but it was important for this committee to understand the impact that the various speed limits have on the number of signs and the cost of signage. It is very important that the effective date discussion be held in the coordination between enforcement and signage issues as this bill moved forward.

Marv Dye, Director, Department of Transportation, stated the Department supported a numerical speed limit and this bill. He claimed the Department would pledge to work with the Department

of Justice, the Attorney General, this committee, and anyone else to make sure the signing is done as quickly as possible.

Bob Anderson, Montana Sheriffs' and Peace Officers' Association stated the association is in support of SB 149.

Thorn Forseth, Montana Transportation Commission and Rimrock Stages Inc., commented he supported the proposed bill. He was concerned that one speed for all would not be appropriate and consideration to reduce speeds for certain segments of road should be given. He proposed the Department of Transportation and Transportation Commission reduce speeds on segments of roads in which it was deemed appropriate. He urged the committee to take that into consideration.

Verner Bertelsen, Montana Senior Citizen's Association, stated Montana senior citizens had been concerned with the fact that Montana didn't have a reasonable set of speed limits. He contended it put seniors in more hazardous situations than the ordinary driver because in some cases their reflexes and vision were not as good as others. He stated the association also supported the speed limit of 75mph on the Interstate during the daytime and the 55-65mph on the secondary roads. They were concerned with the 75mph limit at night on the Interstate, when considering the fact the lights on many vehicles are not adequate to give vision far enough down the road to see what is coming, and the side vision to deal with game animals or farm animals attempting to cross the road, puts motorists at real hazard traveling faster than 65mph.

{Tape : 1; Side : A; Approx. Time Counter : 3:36}

Tom Harrison, AAA of Montana, stated the association has a national policy favoring the adoption of numerical speed limits and supports the passage of SB 149.

Charlene Luckman, Cascade, stated she is in support of setting speed limits but against the high limit stated in the bill of 70mph during the daytime and 65mph at night. She conveyed that her husband was killed when he was struck by a vehicle traveling 70mph while riding his bicycle on a frontage road outside of Cascade. She said the Interstate was under construction at the time and speed was reduced to 65mph. She contended that frontage roads were typically curving and narrow with no shoulders and that many recreational enthusiasts used them. She also contended animals were more prevalent. She believed 70mph on these roads was excessive. She believed that if you were to allow 70mph by law, the speeds would be closer to 75mph to 80mph as they are now. She urged the committee to set daytime speed limits on the

main secondary highways, no higher than 65mph and the smaller frontage type roads or the typical roads which are often gravel, 55mph to 60mph at the max. She asked when the committee was ready to vote on this bill to imagine their child, spouse, or themselves riding a bicycle or walking along these narrow roads that had no room on the shoulders.

Rich Tatarka, Montana Logging Association, entered **EXHIBIT (his14a02)** as written testimony.

Nick Murnion, Garfield County Attorney, stated he supported SB 149 and the provisions including the 70mph on secondary roads and raising the nighttime limit from 55mph to 65mph.

Troy McGee, Chief of Police for Helena, was representing Chief of Police Association and Montana Police Association. He commented the associations were endorsing and in support of SB 149.

Sam Samson, Jefferson County Commissioner, was representing Jefferson County. He was supporting SB 149 and agreed with a 65mph night speed limit. He also wanted the committee to consider Highway 69, between Boulder and Whitehall, and Highway 55, between Whitehall and Twin Bridges. He said the county felt 55mph speed limits for trucks would be appropriate for that area due to heavy traffic from the Canadian trucks. He stated the reason for this was due to the road being very narrow and an abrupt edge along the road had caused serious accidents.

Ray Meyers, Boulder, stated there needs to be a 55mph limit because of no shoulder on the road and a 90 degree cut off the road. Three people have been killed since the new road had been put on. He believed the road needed a 55mph speed limit.

SENATOR DUANE GRIMES, SD 20, Clancy, stated he supports a speed limit. He commented that on Interstate 15 from the Canadian border to the Idaho border truckers were getting off at Boulder and bypassing the two passes going in and coming out of Butte and getting on the Interstate at Dillon. He stated this had caused a problems because it had been difficult to keep up the maintenance. He said it also has caused problems for ranchers who live close to the road. He contended the Highway Department recognized the significance of the additional truck traffic particularly out of state truck traffic. He said the committee had support from the people who live along the road. He supported SB 149 and gave the amendment to the sponsor.

Opponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 3:50}

Gary Balaz, Deputy County Attorney, Bozeman, urged the committee not to adopt any numerical speed limit for the daytime. He believed the only people who were in favor of this bill were power brokers, insurance companies, truckers, labor unions, media, and the Highway Patrol. He commented the fatalities had always fluxuated and that reason should not be contemplated when making a decision.

Michael Was, Professional Driver, Bozeman said people knew a safe and prudent speed to drive at. He contended the fatality rate went up and down just as predicted. He believed speed was not a predictor of fatalities and one years fatalities does not predict what will happen the next year. He said the Highway Patrol had ignored the trucking industry. He explained a study had been done on Bozeman Pass and 95% of the trucks were going at least 13mph over the speed limit. He alleged a posted numerical speed limit would set speed traps. He said he had watched a video which said a good driving practice was to stay away from bunches of cars. He thought that by setting a numerical limit, nobody could pass, the first person in line set the speed and everybody else was piled up behind them.

Bob Runkel, stated his top ten reasons to vote against SB 149.

Henry Stowe, North Carolina, representing the membership of the National Motorist Association of Montana. He commented on his opposition of SB 149, expressed alternatives and entered an information package, **EXHIBIT(his14a03)**.

Mark Cole, principle with Shelby Trucking firm of Dick Irvin, Inc., submitted written testimony, **EXHIBIT(his14a04)**.

Walt Stieg, President and owner of Stieg and Associates, represented his company, as a board member of the Montana Motor Carrier Association and represented Great West Casualty. He submitted written testimony, **EXHIBIT(his14a05)**.

Lorna Karn, represented Montana Farm Bureau members. She said that during a convention, delegates had agreed on 70mph on two lane highways and 85mph on the Interstate. She said the delegates would like to see the night-time speed limit remain the same due to animals on the roads. She stated if no changes were going to be made to the night-time limit on the bill she would urge the committee not to pass SB 149.

{Tape : 2; Side : A; Approx. Time Counter : 4:17}

J.M. Milligan, stated a speed limit on the Interstate to be a dangerous thing. One reason was that with a speed limit cars got

boxed in on the Interstate and had no escape. Without a speed limit, cars are able to space themselves out. He believes citizens needed more drivers' education classes not a speed limit.

Greg VanHorssen, State Farm Insurance Company, stated State Farm was in favor of a numerical speed limit but they were concerned about keeping violations from an insurance company. The bill would keep violations from the people who set insurance rates. He thought the cost of providing coverage would go up. He stated the insurance company supported the numerical value but was concerned with the masking issue.

Dwight Easton, Farmers Insurance Group of Companies, said the function of underwriting was selecting an appropriate group of insurers. He believed the ability to properly group individuals was lost. He entered **EXHIBIT(his14a06)** and **EXHIBIT(his14a07)**.

Larry Barton, manager of Company's Safety for Watkins and Shepard Trucking, Inc., submitted written testimony, **EXHIBIT(his14a08)**.

Brian Cavey, Executive Vice President of the Montana Motor Carriers Association, entered written testimony, **EXHIBIT(his14a09)**.

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 4:30}

SENATOR JABS asked if a study was done on how much damage was done to the highway at higher speeds by the trucks and if it went up substantially the faster they traveled.

Dave Galt replied the literature he read said that if the surface was smooth, truck speed was not a contributing factor to the damage of the highway. He believed breakups in the surface and the speed of the vehicle contributed to additional breakups of the surface.

SENATOR TOEWS asked if any statistics showed how many fatalities came from speeds over the speed limit proposed.

Colonel Reap commented he didn't have the information with him but some discussion was in the auditor's report. Sometimes there is a statement made that there is excessive speed but not the exact speed.

SENATOR TOEWS asked if he was passing someone driving faster than the allowed limit in order to pass, if he was speeding.

Colonel Reap replied if he was driving over the posted limit then yes.

SENATOR SHEA asked why in section 7 they changed the speed from 65mph to 70mph.

SENATOR MOHL responded the reason was he felt the truck speed should be the same as a car speeds because of the narrow roads. They felt if the trucks were traveling the same speed as the cars there would be less chances and fewer people trying to pass on the narrower roads. He also referred to page 6.

SENATOR HERTEL asked who would be responsible for setting up speed limits on various sections of roads and if there was a preference for who would set those speed limits.

Tom Forseth commented ordinarily the Transportation Commission received information on speed zone studies from the Department.

SENATOR HERTEL asked if other states used this practice.

Tom Forseth replied the state of Mexico did a speed study on every section of road in the state and then posted each section of road according to what the study indicated.

SENATOR HERTEL then asked if it might create confusion with driving public not knowing what the speed limit was.

Tom Forseth responded he could see that and thought it would be best to do a town-to-town approach.

SENATOR COLE asked if the speed limits increased for trucks, if the roads were not smooth if they would get greater wear.

Dave Galt replied that is what he got from various research studies he had read.

Mr. Gilmore answered the damage increases as trucks start pounding the highway.

SENATOR COLE asked if there were figures pertaining to a truck speed increase of 10mph on roads that were rough, and the increases for maintenance and operation of those roads caused by the increase.

Mr. Gilmore replied the department did not have the figures.

SENATOR COLE commented the fiscal note indicated the Department of Justice would not incur any additional costs. Then the note stated a fiscal impact of \$35,000 to \$45,000. Also there is no impact on the Highway Patrol but the Drivers Records Bureau in the Motor Vehicle Division will now be keeping track of citations and have to distinguish between citations above and below the 10mph and 5mph cushion. He thought there would be additional records to keep. He also asked if figures were available on the amount of money that came from fines.

Mr. Mazurek replied they do have the information and can give him the history of citations during the time when the environmental limit was imposed and then when the state went to the basic rule as the primary speed enforcement mechanism.

SENATOR COLE asked if there was an increase or decrease.

Mr. Mazurek commented there was a decrease in the number of violations when the limit went off.

SENATOR JERGESON asked if the insurance industry classified teenage drivers as naturally safe and prudent when developing premium calculations.

Greg VanHorssen replied no, the industry considers them a higher risk and that was reflected in a higher premium.

SENATOR JERGESON commented that another witness had suggested that life insurance rates would go up because of citations. If that were the case he assumed that would not apply to someone who had not received a citation.

Greg VanHorssen commented it requires a citation to be issued for it to mean something to an insurer with respect to either a future chance of auto accidents or something to do with actual life expectance.

SENATOR TOEWS asked how the sponsor come up with the speeds for the speed limit in the bill since his experiment didn't indicate the speed limit should be that.

SENATOR MOHL answered his original speed was faster than what was proposed, but when meeting with the Governor and Attorney General a compromise was made that the speed be lowered in exchange for the 10mph over not going on your record.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 4:55}

SENATOR MOHL said no matter what legislators do, they are going to make some people happy and some people unhappy. He believed they should do what the majority of the constituents say. He referred to page 2 and commented the bill stated the speed limit set forth in this section may be altered by the Transportation Commission or a local authority as authorized. He alleged that they could not personally change the speed limit in every area. He stated Senator Swysgood said he was all for a change in the truck speed limit to 75mph, the same as cars on the Interstate. He remarked that we all were not professional drivers so we had to put a speed limit on to address the average people. He explained that a speed limit did not mean you had to drive that speed just that you cannot exceed that speed. He referred to page 6 line 10 which covered slow-moving vehicles. He hoped when the committee took action they would find this a favorable bill and pass it.

ADJOURNMENT

Adjournment: 5:00 P.M.

SEN. ARNIE MOHL, Chairman

PHOEBE OLSON, Secretary

AM/PO

EXHIBIT (his14aad)