

## MINUTES

### MONTANA SENATE 62nd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

**Call to Order:** Chair Terry Murphy, on March 25, 2011 at 3:00 P.M., in Room 405 Capitol

#### ROLL CALL

**Members Present:**

Sen. Terry Murphy, Chair (R)  
Sen. Shannon Augare (D)  
Sen. Anders Blewett (D)  
Sen. Jeff Essmann (R)  
Sen. Greg Hinkle (R)  
Sen. Rowlie Hutton (R)  
Sen. Larry Jent (D)  
Sen. Cliff Larsen (D)  
Sen. Lynda Moss (D)  
Sen. Chas Vincent (R)

**Members Excused:** Sen. Jim Peterson (R)  
Sen. Jim Shockley, Vice Chair (R)

**Members Absent:** None

**Staff Present:** Valencia Lane, Legislative Branch  
Pam Schindler, Committee Secretary

**Audio Committees:** These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

**Committee Business Summary:**

Executive Action on: SB 423-Do Pass As Amended

**EXHIBIT(jus67b01)**

Letter from Montana Automobile Dealers Association (MTADA) in support of HB 161 heard 3/11/11

**EXECUTIVE ACTION ON SB 423**

00:01:05 **Motion:** Sen. Essmann moved that **SB 423 DO PASS.**

**EXHIBIT(jus67b02)**

00:01:51 Sen. Larsen

00:03:05 Sue O'Connell, Legislative Services Division (LSD)

00:06:00 Sen. Essmann

00:06:14 Sen. Murphy

00:06:22 Ms. O'Connell

00:06:44 **Motion:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGE 1, SEGREGATED SECTIONS 2, 4, 6, 7, 8, 9.**

**EXHIBIT(jus67b03)**

**Discussion:**

00:07:34 Sen. Moss

00:07:59 Ms. O'Connell

00:08:39 **Vote:** Motion carried unanimously by roll call vote. Sen. Peterson and Sen. Shockley voted by proxy.

00:09:24 Sen. Larsen

00:09:40 Ms. O'Connell

00:10:28 Sen. Murphy

00:10:32 **Motion:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGE 1, SECTION 3.**

**Discussion:**

00:10:53 Sen. Essmann

00:11:18 **Vote:** Motion carried unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy.

00:11:52 Ms. O'Connell

00:12:55 Sen. Murphy

00:13:00 Ms. O'Connell

00:13:10 **Motion/Vote:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGE 1, SECTION 5, PAGE 4, SECTION 23.** Motion carried unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy.

00:13:41 Ms. O'Connell  
00:13:54 Sen. Essmann  
00:13:58 Sen. Murphy

00:14:05 **Motion/Vote:** Sen. Essmann moved that **SB 423 BE AMENDED WITHIN THE TITLE, PAGE 1, LINE 12, FOLLOWING 45-10-107, INSERT 50-46-201, 50-46-202. AND FOLLOWING 69-1-401, MCA; INSERT, "REPEALING SECTIONS 50-46-101, 50-45-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-206, AND 50-46-210-MCA .** Motion carried unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy. (Please refer to Exhibit #4)

00:14:28 Ms. O'Connell  
00:17:48 Sen. Murphy  
00:17:53 Sen. Larsen  
00:18:11 Sen. Essmann  
00:18:14 Sen. Murphy

00:18:25 **Motion:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGE 2, SECTIONS 10-19.**

**Discussion:**

00:18:49 Sen. Vincent  
00:19:46 Sen. Augare

00:19:55 **Substitute Motion:** Sen. Vincent made a substitute motion that **SB 423 BE AMENDED AND TO SEGREGATE SECTIONS 11 AND 13, PAGE 2.**

**Discussion:**

00:20:43 Sen. Larsen

00:21:46 **Vote:** Motion carried unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy.

00:21:53 **Motion:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGES 3 AND 4, SECTIONS 20-24.**

**Discussion:**

00:22:04 Ms. O'Connell

00:24:51 **Substitute Motion:** Sen. Essmann made a substitute motion that **SB 423 BE AMENDED AND TO SEGREGATE SECTION #21, PAGE 3.**

**Discussion:**

00:25:11 Ms. Lane  
00:25:24 Sen. Larsen  
00:25:50 Sen. Essmann  
00:27:39 Sen. Larsen  
00:27:50 Sen. Blewett  
00:28:37 Sen. Essmann  
00:29:00 Sen. Blewett  
00:29:45 Sen. Essmann  
00:30:11 Sen, Blewett

(Sen. Jent absent from the room)

00:31:01 Sen. Essmann  
00:31:40 Sen. Larsen  
00:31:53 Sen. Lane

00:32:06 **Motion/Vote:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGES 3 AND 4, SECTIONS 20, 22, 24.** Motion carried unanimously by voice vote. Sen. Jent, Sen. Peterson and Sen. Shockley voted by proxy.

00:32:38 Ms. O'Connell

00:33:32 **Motion:** Sen. Essmann moved that **SB 423 BE AMENDED with a CONCEPTUAL AMENDMENT, PAGE 44, LINE 25, TO CHANGE LANGUAGE TO "A STATE LICENSING AUTHORITY".**

00:34:01 Ms. O'Connell

(Sen. Jent returned to the room)

00:34:15 **Vote:** Motion carried unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy.

00:34:57 **Motion:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGE 4, SECTIONS 26, 27, 28, AND 29.**

**Discussion:**

00:35:03 Ms. O'Connell

00:36:39 **Substitute Motion:** Sen. Essmann made a substitute motion that **SB 423 BE AMENDED PAGE 4, AND TO SEGREGATE SECTIONS 26 AND 27.**

**Discussion:**

00:37:09 Sen. Larsen  
00:37:31 Ms. O'Connell

00:37:50 **Vote:** Motion carried unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy.

00:38:09 Sen. Essmann

00:38:51 Sen. Vincent

00:39:04 **Motion:** Sen. Essmann moved that **SB 423 BE AMENDED, PAGE 2, SECTIONS 11 AND 13, PREVIOUSLY SEGREGATED.**

**Discussion:**

00:39:13 Sen. Vincent

00:40:34 Sen. Moss

00:41:03 Sen. Essmann

00:42:22 Sen. Vincent

00:43:34 **Vote:** Motion failed 6-6 by roll call vote with Sen. Essmann, Sen. Hinkle, Sen. Hutton, Sen. Jent, Sen. Peterson and Sen. Shockley voting aye. Sen. Peterson and Sen. Shockley voted by proxy.

00:45:23 **Motion:** Sen. Larsen moved that **SB 423 BE AMENDED, PAGE 3, SECTION 21, PREVIOUSLY SEGREGATED.**

**Discussion:**

00:45:44 Sen. Essmann

00:46:36 **Vote:** Motion failed unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy.

00:47:11 **Motion:** Sen. Essmann moved that **SB 423 NOT BE AMENDED WITH SECTIONS 26 AND 27, PAGE 4.**

**Discussion:**

00:49:27 Sen. Larsen

00:49:38 Ms. O'Connell

00:49:46 Sen. Blewett

00:49:58 Ms. O'Connell

00:50:27 Sen. Blewett

00:50:38 Ms. O'Connell

00:51:09 Chairman Murphy

00:51:19 Sen. Essmann without objection **WITHDREW MOTION TO NOT ADOPT AMENDMENTS SECTION 26 AND 27, PAGE 4.**

00:51:38 Sen. Essmann  
00:52:40 Ms. O'Connell  
00:53:07 Sen. Murphy  
00:53:43 Ms. O'Connell  
00:54:09 Sen. Murphy  
00:54:25 Sen. Essmann  
00:55:04 Sen. Murphy  
00:55:58 Sen. Blewett  
00:56:15 Sen. Murphy  
00:56:55 Ms. O'Connell  
00:57:23 Sen. Vincent  
00:57:46 Sen. Essmann  
00:58:21 Sen. Moss  
00:58:30 Sen. Essmann  
00:58:49 Sen. Vincent  
00:59:26 Sen. Murphy  
00:59:46 Sen. Vincent  
01:00:20 Sen. Blewett  
01:00:28 Rep. Sands, HD 95, without objection  
01:01:15 Sen. Blewett  
01:01:38 Rep. Sands

01:02:45 **Substitute Motion:** Sen. Vincent made a substitute motion that **SB 423 BE AMENDED, PAGE 48, LINE 5, STRIKE, "2 OUNCES", INSERT THE FOLLOWING "AMOUNTS OF USABLE MARIJUANA", FOLLOWING RESIDENCE, INSERT "8 OUNCES FROM JULY 1 THROUGH JULY 31, 6 OUNCES FROM AUGUST 1 THROUGH AUGUST 31, 4 OUNCES FROM SEPTEMBER 1 THROUGH SEPTEMBER 30, AND 2 OUNCES ON OR AFTER OCTOBER 1."**

**Discussion:**

01:03:25 Ms. O'Connell  
01:03:49 Sen. Essmann  
01:04:52 Sen. Blewett  
01:05:17 Valencia Lane, LSD

01:05:37 **Vote:** Motion carried 8-4 by roll call vote with Sen. Essmann, Sen. Hinkle, Sen. Hutton and Sen. Jent voting no. Sen. Peterson and Sen. Shockley voted by proxy.

01:06:35 **Motion:** Sen. Essmann moved that **SB 423 BE AMENDED. EXHIBIT(jus67b04)**

**Discussion:**

01:07:41 Ms. O'Connell  
01:08:00 Sen. Essmann

01:09:04 **Vote:** Motion carried 11-1 by voice vote with Sen. Hinkle voting no. Sen. Peterson and Sen. Shockley voted by proxy.

01:09:41 Sen. Essmann  
[EXHIBIT\(jus67b05\)](#)

01:09:56 Ms. O'Connell  
01:11:01 Sen. Vincent  
01:11:49 Sen. Essmann  
01:12:10 Rep. Sands  
01:12:52 Sen. Larsen  
01:13:20 Sen. Murphy  
01:14:55 Ms. O'Connell

01:16:29 **Motion/Vote:** Sen. Essmann moved that **SB 423 BE AMENDED**. Motion carried unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy.  
[EXHIBIT\(jus67b06\)](#)

01:17:05 **Motion:** Sen. Larsen moved that **SB 423 BE AMENDED**.  
[EXHIBIT\(jus67b07\)](#)

**Discussion:**

01:18:19 Ms. Lane  
01:18:56 Sen. Murphy  
01:19:07 Ms. Lane  
01:19:18 Sen. Larsen

01:20:11 **Vote:** Motion carried unanimously by voice vote. Sen. Peterson and Sen. Shockley voted by proxy.

01:20:33 Sen. Essmann (Please refer to exhibit #2)  
01:21:48 Sen. Larsen  
01:23:06 Julianne Burkhardt, LSD  
01:23:47 Sen. Larsen  
01:24:20 Sen. Blewett  
01:24:43 Sen. Jent  
01:24:52 Sen. Essmann  
01:27:15 Sen. Jent  
01:27:57 Sen. Murphy  
01:29:16 Sen. Moss  
01:29:56 Sen. Hutton  
01:30:22 Sen. Jent  
01:30:42 Sen. Hutton  
01:31:08 Sen. Jent  
01:31:26 Sen. Murphy  
01:31:56 Sen. Hinkle  
01:32:44 Sen. Essmann

01:33:16 Sen. Larsen  
01:33:59 Sen. Blewett  
01:34:49 Sen. Jent

(Sen. Hinkle left room)

01:35:56 Sen. Essmann  
01:39:39 Sen. Jent  
01:39:46 Sen. Blewett

01:40:17 **Motion:** Sen. Jent moved that **SB 423 BE AMENDED WITH A CONCEPTUAL AMENDMENT** on **PAGE 11, LINE 4 AND 5, STRIKE "A VIOLATION OF", INSERT, "A REGISTERED CARDHOLDER WHO VIOLATES", STRIKE "\$10,000" INSERT, "\$500"**.

**Discussion:**

01:41:11 Sen. Blewett

(Sen. Hinkle returned to the room, Sen. Larsen absent from the room)

01:44:59 **Vote:** Motion carried 10-2 by voice vote with Sen. Essmann and Sen. Hinkle voting no. Sen. Larsen, Sen. Peterson and Sen. Shockley voted by proxy.

01:45:57 **Motion/Vote:** Sen. Essmann moved that **SB 423 BE AMENDED WITH A CONCEPTUAL AMENDMENT, PAGE 4, LINE 12; ADD THE WORDS "OR REFERRAL PHYSICIAN"**. Motion carried 11-1 by voice vote with Sen Hinkle voting no. Sen. Larsen, Sen. Peterson and Sen. Shockley voted by proxy.

01:48:08 **Motion/Vote:** Sen. Essmann moved that **SB 423 BE AMENDED WITH A CONCEPTUAL AMENDMENT, PAGE 4, LINES 22-26, STRIKE, "A REFERRAL PHYSICIAN" THROUGH "REFERRAL PHYSICIAN", INSERT, "THE SECOND PHYSICIAN WHO". FOLLOWING CERTIFICATION, INSERT, "FOR A MINOR OR A QUALIFYING PATIENT WHOSE DEBILITATING MEDICAL CONDITION IS SEVERE CHRONIC PAIN"**. Motion carried unanimously voice vote with Sen. Larsen, Sen. Peterson and Sen. Shockley voting by proxy.

(Sen Blewett absent from the room)

01:49:58 Sen. Moss  
01:50:11 Ms. O'Connell

01:50:51 **Motion/Vote:** Sen. Moss for Sen. Larsen moved that **SB 423 BE AMENDED ON PAGE 5, LINE 28, INSERT "INTERNAL MEDICINE", STRIKE "GYNECOLOGY" AND INSERT "OPHTHALMOLOGY"**. Motion carried unanimously by voice vote. Sen. Blewett, Sen. Larsen, Sen. Peterson and Sen. Shockley voted by proxy. (Please refer to Exhibit #3)

01:51:09 Ms. O'Connell

01:51:35 **Motion/Vote:** Sen. Moss moved that **SB 423 BE AMENDED WITH A CONCEPTUAL AMENDMENT FOR PAGE 8, LINE 14, FOLLOWING CORRECTIONS ADD: "A DISTRICT COURT, A COURT OF LIMITED JURISDICTION"**. Motion carried unanimously by voice vote. Sen. Blewett, Sen. Larsen, Sen. Peterson and Sen. Shockley voted by proxy.

01:51:53 Sen. Hutton

01:53:09 Sen. Essmann

01:54:03 Sen. Vincent

01:57:53 Sen. Hinkle

01:58:16 **Motion:** Sen. Augare moved that **SB 423 DO PASS AS AMENDED**.

(Sen. Blewett and Sen. Larsen returned to the room)

**Discussion:**

01:59:10 Sen. Blewett

02:00:37 Sen. Moss

02:01:13 Sen. Larsen

02:01:39 Sen. Augare

02:02:29 **Vote:** Motion carried 10-2 by roll call vote with Sen. Hinkle and Sen. Jent voting no. Sen. Peterson and Sen. Shockley voted by proxy.

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**ADJOURNMENT**

Adjournment: 5:45 P.M.

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Pam Schindler, Secretary

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Additional Documents:

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**EXHIBIT([jus67bad.pdf](#))**