

North Dakota House Energy & Natural Resources Committee
Chairman Todd Porter

Senate Bill 2241 – amendment to NDCC 32-03-30

Association of North Dakota Insurers – testifying in SUPPORT of this bill.

Chairman Porter and members of the North Dakota House Energy & Natural Resources Committee –

My name is Chris Oen. I serve as the Vice President of Claims for Nodak Insurance Company along with as a board member of the Association of North Dakota Insurers, or ANDI for short. ANDI comprised of insurance companies that are domesticated in North Dakota, along with associate members that do insurance business within this state. The core domestic members are Center Mutual Insurance, Farmers Union Insurance, Heartland Mutual Insurance, and Nodak Insurance Company.

I come here today to encourage a DO PASS vote from this committee on the first engrossment of SB 2241.

North Dakota Century Code 32-03-30 defines “Damages for wrongful injuries to timber”. As I was preparing for my testimony, I ended up going down a huge black hole in attempting to find the basis of why this was in our ND statutes. The best that I could find was it originated in 1913 (110 years ago) finding the first rendition of this law in the Compiled Laws of the State of ND 1913.

The further I looked (which gave a lot of uncertainty for sure) was this law was based on the founding of our state, with inter and intra state transportation exploded. Think back to 1913 with railroads and roadways being built. Landowners were subject to loss of trees in many ways and often against their wants.

In the early 1900’s trees in North Dakota were likely at a premium. Landowners did not want them haphazardly removed and I believe this law was designed and implemented to give those landowners rights and recovery for removal of timber. And when that timber was removed, the law set a premium – note the “measure of damages is three times such a sum would compensate for the actual detriment”.

Fast forward to today. While timber and trees are still important to property owners, why should ND have a law that unduly punishes an entity that inadvertently causes property damage to trees?

The original draft of this bill was to strike out the entire law. However, after discussions within the House along with input from parties that deal with damages to timber, and more clear amendment was agreed to and the Senate passed the bill unanimously.

If you look at this bill in its current form, it is important to look at what is being struck. The 2nd word is Wrongful. ANDI is here today testifying in support because most damage to timber in ND is of the accidental or inadvertent type. For example, a person is burning some leaves and the fire gets away and causes fire damage to a group of trees. Or maybe a farmer is spraying crops and the wind shifts causing drift.

I want to make it clear to the committee that this change does not bar a person for making a claim for damages to trees or timber. The legal right to make these claims are exactly similar to any other

property damage. What typically occurs on accidental or inadvertent damages to trees, an arborist or “expert” will come in and value the tree damage and the claim is paid if owed. Values on trees are commonly assessed every day within our state.

The intent of this change is to clear up when treble/tripled damages can be recovered. In the last part of the “exception” language that is struck, the law was intended to exclude “casual and involuntary trespass”. What is being proposed by striking the language and applying treble damages to only intentional trespass or damage. The newly drafted language is clearer and more defined.

On behalf of the Association of ND Insurers, we encourage this committee to give a “Do Pass” recommendation.