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January 30, 2023

**VIA ELECTRONIC SUBMISSION ONLY**

The Honorable Dan Ruby  
Chair, ND House Transportation Committee  
600 East Boulevard Avenue  
Bismarck, ND 58505

**Re: Testimony in Support of HB 1506.**

Dear Chairman Ruby and members of the House Transportation Committee:

My name is Luke Heck, and I am a criminal defense attorney in Fargo, ND, and other than during law school, a lifelong North Dakotan. I submit this written testimony in full support to HB1506. Over the course of my defense practice, I've represented two to three individuals charged with DUI on a bicycle, with one going to trial and resulting in an acquittal by the jury. In short, HB1506 is a long overdue amendment to the archaic language currently outlined under N.D.C.C. § 39-07-01.

As currently constructed, N.D.C.C. § 39-07-01 requires bicycles and ridden animals be deemed vehicles for the purposes of N.D.C.C. §§ 39-08 through 39-13. This current construction creates significant practical absurdities based on the rest of the title. For instance, the term "vehicle," as defined under N.D.C.C. § 39-01-01(2)(a)(103), expressly excludes an "electric bicycle." Moreover, N.D.C.C. § 39-01-01(2)(a)(3) defines "bicycle" as "every device propelled solely by human power upon which any person may ride, having two tandem wheels or two parallel wheels and one forward or rearward wheel." In other words, N.D.C.C. § 39-07-01 currently prohibits DUI on a bicycle, but otherwise allows driving under the influence on an electric bicycle, or non-electric (or electric) bicycle with training wheels. HB1506 addresses the absurdities with the state of this law.

Further, HB1506 addresses the true public policy purpose of preventing drunk driving. As one juror after my sole bicycle DUI trial put it, "I thought the whole point of the ads was to put your keys in the fishbowl and get home safely, like on a bike." DUI laws are designed to penalize those who get behind the wheel of a motor vehicle impaired. Currently, N.D.C.C. § 39-07-01 fails to recognize that, and instead seeks to prosecute and penalize those who are opting to take significantly safer way home. Moreover, while administratively the NDDOT does not suspend or revoke for bicycle or ridden animal DUI allegations administratively, a criminal conviction would result in the NDDOT being notified, and action likely taken on, for instance, a bicyclists North Dakota motor vehicle driving privileges. Such a consequence is inconsistent with both North Dakota law and public policy.

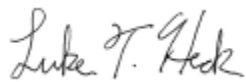
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Finally, if concerns arise regarding consequences for individuals in circumstances, for example, where a bicyclist damages another individual's property or motor vehicle, there are already protections in place to prosecute individuals for such damage. For instance, our state's criminal mischief laws would apply and could be utilized to prosecute a bicyclist in such a scenario under N.D.C.C. § 12.1-21-05, among other statutes. Put simply, revising the archaic language of N.D.C.C. § 39-07-01 is not a means for drunken bicyclists or equestrians to skirt responsibility for their actions. Instead, HB1506 is addressing the practical issues and absurdities in the current state of our law.

I respectfully ask this Committee to recommend a "do pass" of HB1506. Please do not hesitate to contact me if you have any questions.

Very truly yours,

A handwritten signature in cursive script that reads "Luke T. Heck".

Luke T. Heck

LTH:lh