

HB 1506 – Bicycle DUI
House Transportation
February 2, 2023
Rep. Shannon Roers Jones

Committee I'm going to give you the opportunity to choose your own adventure today. I'm going to present the original bill, and then an amendment, plus the rationale for each and then you can pick the approach you think works best.

First a little background. The bill as submitted was drafted by Rep. Mock as part of his work in developing the peddle-pub legislation you heard recently. As he was working through the process we were talking about the bill that I submitted, and passed through the house in 2019, which is the amendment you have before you. Rep. Mock suggested that since I had already worked this bill through the house once before that I should take another shot at it.

The original bill would solve the most glaring issue. Currently the law defines a bicycle or a ridden animal as a vehicle. The current bill would not allowing that definition to be used to cite someone with driving under the influence. Which is very important. It certainly isn't good policy to be able to suspend a person's driver's license for riding a bike or a horse under the influence when they don't need a driver's license to ride one sober.

However, the bill as submitted leaves several other oddities unresolved. My belief is that moving forward the amended bill will resolve several other incongruencies that exist in law.

North Dakota law provides a bicycle or ridden animal is deemed a "vehicle" for purposes of Chapters 39-08 through 39-13. The amended bill will only allow a bicycle or ridden animal to be defined as a vehicle for "noncriminal" traffic offenses in those chapters.

"Vehicle" and "motor vehicle" have distinct definitions under the code. Certain traffic regulations govern operation of all vehicles, while others govern only motor vehicles. North Dakota law prohibits driving or being in actual physical control of a "vehicle." Interestingly, by definition, "vehicle" "does not include an electric bicycle." So a person can be convicted of DUI for riding a bicycle while impaired, but not if the bicycle is also equipped with an electric motor. Moreover, as defined, a bicycle is a device powered solely by human power with two wheels. So a bicyclist who affixes training wheels, or a person riding a tricycle, is arguably beyond the reach of the DUI statute.

These anomalies, along with sufficient alternatives to prosecute crimes under the criminal code, warrant consideration of eliminating criminal violations from the definition of "vehicle."

I have handed out a chart that lists all criminal violations from Chapter 39-08 through Chapter 39-13. I have listed all offenses, including those arguably only applicable to a "motor vehicle." I have also included the penalty provision. Finally, I have identified potential counterpart criminal

statutes which would allow a prosecutor to prosecute the conduct at issue under the criminal code.

Other than two obscure offenses (driving on a flood protective work and employing drivers addicted to intoxicants), every criminal traffic offense committed by the operator of a bicycle or ridden animal which is punishable under the traffic code, is punishable under counterpart statutes contained in the criminal code.

Overall when you try to apply these criminal codes to a person on a bicycle or a horse you end up with a host of absurdities. In the rare instance where a bicyclist or horse rider is actually causing trouble there are other sections of law available to deal with those crimes.

Committee, if you pass the bill as originally drafted, you will solve the most significant issue of a bicycle or a horse being defined as a vehicle for driving under the influence or actual physical control, but if you choose to pass the amendments you will also resolve the remainder of the crimes on the list that you could be charged if a bicycle or horse continue to be defined as a vehicle. While I recommend passing the amended version of the bill, the choice is up to you!