



North Dakota Senate

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Senator Donald Schaible

District 31
9115 Highway 21
Mott, ND 58646-9200

dgschaible@ndlegis.gov

COMMITTEES:
Appropriations

House Transportation Committee

March 9, 2023

Good morning, Chairman Ruby and members of the House Transportation Committee

For the record, I am Senator Don Schaible, District 31, here to introduce SB 2285 at the request of some of our local Sherriff Departments with an issue they have with Sec 38-08-05 with damage to vehicles.

If you notice this is not the same testimony that I had sent electronically for a few minutes after I sent that one, I was informed that neither Sheriff Sarah Warner nor Chief Deputy Kyle Christenson was not able to attend this morning so I needed to get a little more familiar with the details of this bill.

It is my understanding that this section deals with damage to vehicles and does not address damage that may accrue with other property. The improvement to this bill asks to include other property by adding the language of "another vehicle" and "or any other fixed object object on public or private property."

Current language leads to an interpretation that one can be found guilty of violation of this subsection if the damage resulting from the crash is limited to only vehicles.

- The inclusion of the word "only", when taken in context with the statute as a whole, states that a person may be charged with a class B Misdemeanor if they fail to return to the scene of a crash only if they caused damage to their vehicle or another vehicle.
- If any other object is damaged, not only has a vehicle been damaged. Thus, § 39-08-05 and the class B Misdemeanor penalty cannot apply to that incident. The prosecutor must then defer to § 39-08-09 which states a fine of fifty dollars is to be assessed.

- Use of the word “only” creates a broad opportunity for people who are otherwise guilty of a “hit and run” offense to avoid a class B Misdemeanor offense and, instead, simply be found guilty of an infraction and be required to pay a fifty-dollar fine.
- A potential \$50 fine is little incentive to encourage drivers to report a crash which caused property damage.
- SB 2285’s proposed changes to § 39-08-05 removes the word “only” so as to give more teeth to Peace Officers and prosecutors when a defendant has fled the scene of a reportable crash.

I would try to answer any questions you may have.