

TESTIMONY OF

Sergeant Wade Kadrmas, Safety and Education Officer

Good afternoon, Chairman Clemens and members of the Senate Transportation Committee. My name is Wade Kadrmas, and I serve as the Safety and Education officer for the North Dakota Highway Patrol. I am here to provide neutral testimony on House Bill 1506.

I want to start out by thanking the bill sponsors for taking into consideration the initial concerns the patrol expressed regarding this bill. We appreciate the bill being limited to only exempting bicycles and ridden animals from North Dakota Century Code (NDCC) 39-08-01 instead of all the other sections listed under NDCC 39-07-01.

The new section created in 39-10.1 is the proper location to address an individual operating a bicycle on a roadway, or an area the public has access to, while the bicycle rider is under the influence of alcohol or any drug to a degree which renders the individual a hazard to themselves or the general public. The patrol would like the committee to look at increasing the deterrent to something greater than twenty dollars. The current penalty for riding a bicycle under the influence is a class B misdemeanor. A twenty dollar fine doesn't adequately address the dangers a bicycle rider, who is under the influence of alcohol or drugs, can create on our roads or in public areas.

According to NDCC 39-10.1-02, "Every person riding a bicycle upon a roadway is granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle by this title..." This is important to point out because bicycles have the same rights on the roadways as do motor vehicles, and therefore, there are laws in place to govern the safe operation of those bicycle operators. Bicycle riders should not face a driver's license suspension if they are arrested and convicted of riding a bicycle while intoxicated, but they should face a more serious penalty than a twenty dollar fine.

For example, in 2018 the highway patrol responded to a call of a bicycle operator causing a traffic hazard on Interstate 94 in the Fargo area on a busy summer afternoon. Thankfully, one of our officers arrived on scene and was able to prevent a tragedy from occurring. The bicycle operator had a blood alcohol concentration (BAC) of 0.26% and was arrested for DUI. Although this intoxicated individual was arrested for committing a violation of state law, it did not come without a price. As a result of this person's behavior, a crash resulted from other motorists slowing down and stopping to avoid hitting the bicycle operator. Although this event resulted in an arrest and a minor crash, not all impaired bicyclists are so lucky.

Again in 2018, our agency responded to a report of an injury crash north of Fargo. A female was

riding her bicycle on the shoulder of a county road during peak travel time. She attempted to cross the roadway without looking behind her and was struck by an SUV. One of our troopers arrived on scene within a few minutes of the call, just in time to see the failed attempts by the paramedics to save her life. After learning that the deceased female lived only a few houses away from the crash, a state trooper delivered the death notification to her husband and her adult sons. It was later learned that her BAC was 0.10%. These two examples illustrate the hazards created by riding a bicycle while impaired.

To further complicate matters, an "electric bicycle" or e-bike is considered a "bicycle" but, not a "vehicle" according to the definitions under NDCC 39-09-01. There are three classes of electric bicycles defined under subsection nineteen of section 39-01-01 of the North Dakota Century Code. Paragraph (c) of that subsection defines a class 3 electric bicycle, which allows for a maximum speed of 28 miles per hour before the motor ceases to provide additional power. With further modifications, it is hard to tell how fast an electric bicycle may be able to travel. Allowing the rider of an e-bike to be under the influence of alcohol or drugs while on a walking path, sidewalk, or roadway could have devastating consequences considering they can travel just as fast as traffic in a 25 mph zone.

At the end of my testimony is a proposed amendment the patrol would like the committee to consider. The amendment would remove this sentence, "The term does not include an electric bicycle.", from the definition of a vehicle under subsection 103 of section 39-01-01 of the North Dakota Century Code. Section one of HB 1506 is meant to exempt bicycle riders from being arrested and charged with a DUI according to NDCC 39-07-01. If you look at line eleven on page one of the bill it states that "for the purposes of chapters 39-08 through 39-13, a bicycle or ridden animal must be deemed a vehicle.". Also, as I mentioned before, NDCC 39-10.1-02, grants bicycle riders all the rights and subjects them to all of the duties applicable to the driver of a vehicle under Title 39 of the NDCC. Bicycles are considered vehicles in other parts of century code and having this statement at the end of the definition of a "vehicle" causes confusion. I could not find any reason this sentence needs to be at the end of the definition of a "vehicle".

Alcohol and drug-related crashes are 100% preventable, yet 203 people have died in alcohol-related crashes in North Dakota over the past five years. Driving under the influence of alcohol or drugs is a dangerous behavior that law enforcement and many other Vision Zero partners are working to prevent. Allowing bicycle riders, the ability to use public roadways while under the influence of alcohol or drugs is a recipe for disaster, especially when they create a hazard.

Personal responsibility is a critical element in eliminating impaired driving crashes, whether the person is driving a motor vehicle or riding a bicycle, the responsibility falls on the operator of that vehicle to ensure they are in the proper condition to safely operate that vehicle.

This concludes my testimony. I am happy to answer any questions you may have.

PROPOSED AMENDMENT TO House Bill No. 1506

Page 1, after line 6 add "**Section 1. AMENDMENT.** Subsection 103 of section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

103. "Vehicle" includes every device in, upon or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks. ~~The term does not include an electric bicycle.~~

Page 1, line 7, after "**SECTION**" replace "**1**" with "**2**"

Page 1, line 15, after "**SECTION**" replace "**2**" with "**3**"

Page 1, line 20, after "**SECTION**" replace "**3**" with "**4**"

39-07-01. Bicycle or ridden animal to be deemed vehicle.

For the purposes of chapters 39-08 through 39-13, a bicycle or a ridden animal must be deemed a vehicle.

39-01-01. Definitions.

In this title, unless the context or subject matter otherwise requires:

3. "Bicycle" means 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. The term includes an electric bicycle.

19. "Electric bicycle" means a bicycle equipped with fully operable pedals, a saddle or seat for the rider, and an electric motor of seven hundred fifty or fewer watts which meets the requirements of one of the following three classes:

a. A class 1 electric bicycle if the motor provides assistance only when the individual is pedaling and the motor ceases to provide assistance when a speed of twenty miles [32 kilometers] per hour is achieved.

b. A class 2 electric bicycle if the motor is capable of propelling the bicycle without the individual pedaling and the motor ceases to provide assistance when a speed of twenty miles [32 kilometers] per hour is achieved.

c. A class 3 electric bicycle if the motor provides assistance only when the individual is pedaling and the motor ceases to provide assistance when a speed of twenty-eight miles [45 kilometers] per hour is achieved.

103. "Vehicle" includes every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks. The term does not include an electric bicycle.

39-07-01. Bicycle or ridden animal to be deemed vehicle.

For the purposes of chapters 39-08 through 39-13, a bicycle or a ridden animal must be deemed a vehicle.

39-10.1-02. Traffic laws apply to persons riding bicycles.

Every person riding a bicycle upon a roadway is granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle by this title, except as to special regulations in this title and except as to those provisions of this title which by their nature can have no application.