

1999 SENATE TRANSPORTATION

SB 2262

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2262 and SB 2406

Senate Transportation Committee

Conference Committee

Hearing Date February 4, 1999

Tape Number	Side A	Side B	Meter #
1		x	3,182-End
2	x		1-2714
2	x		4,080-5030
February 11, 1999-2	x		4586-4950
Clerk Signature <i>Alice A. Schaeffer</i>			

Minutes:

SENATOR B. STENEHJEM opened the hearing on SB 2262. Committee members present included: Sens. Bob Stenehjem, R. Schobinger, D. Mutch, D. Cook, D. O'Connell, V. Thompson, and D. Bercier.

SENATOR STEVE TOMAC, DISTRICT #31 testified in support of SB 2262. The reason for this bill is the escalating number of citations for those without insurance. It has gone beyond a point and needs to be dealt with in a direct and serious manner. There is no greater hardship to bestow on someone then to get hit by someone who does not have insurance. There are some statistics from the Morton County Sheriff's Department, the Highway Patrol, and the Mandan Police Department (see statistics). In 1998, there were 300 citations in Morton County. How can we address this? We could increase the fine and provide community service. But after talking to people about it, that really isn't going to curb the problem. There is probably a reason

why they are not buying insurance. For one, they don't have the money for it so they also won't have the money to pay the fine. We decided to parallel our solution very close to an SR22 which requires the Department of Transportation to be notified that there was a citation given. If there is a lapse in that insurance, the Department of Transportation will do similar to what they do with an SR22 when one gets a DUI. SB 2262 is not the direction we want to go. We want to go in the direction that says if you're cited without insurance you are still going to have a \$150 fine but you will also have to provide proof of insurance and continue to provide proof of insurance via the Department of Transportation for a minimum of a year the first time and after that it's open to discussion. If your insurance lapses during that time, there will be a revocation of your driver's license.

SENATOR DWIGHT COOK, DISTRICT #34 testified in support of SB 2406. In my lifetime I have had two accidents with drivers who did not have liability insurance. I have three more numbers for 1998. These are citations written in 1998: no liability insurance, no crash involved, first offense-2,077; no liability insurance and a crash involved-271; no liability insurance, second or subsequent offenses-382. We do have a serious problem. Section 1 of SB 2406 deals with the reinstatement fees the individual must pay to have his license reinstated. It doubles the fees from \$25 to \$50. If the license was lost through alcohol, it raises it from \$50 to \$100. Section 2 forces the individual to show proof of insurance with an insurance card; if you don't have the card, you have fourteen days to twenty days to present that card and prove your insurance and avoid getting a ticket. The law enforcement officer will obtain insurance from the department. This will create communication between the insurers and Department of Transportation.

SENATOR SCHOBINGER Can they obtain that information on a Saturday or Sunday?

SENATOR COOK We want to make it twenty-four hours a day, seven days a week.

SENATOR THOMPSON If people have insurance and it lapses, are they made aware from the insurance company?

SENATOR B. STENEHJEM This bill would require the insurance companies to notify the Department of Transportation of any cancellations or terminations of the insurance policy.

KENT OLSON, EXECUTIVE DIRECTOR FOR PIA testified in support of SB 2262 and 2406.

I may caution you on SB 2406, page 3, section 2. We may not be ready to mandate a dialogue between auto insurance companies and the Department of Transportation. The intent is good but in practicality it may not work. The companies have a cost factor. We like the idea of raising the fine if there is no proof of insurance and if the insurance lapses it will cost \$25.00 to reinstate the driving privileges. The mandatory fine of \$100.00 and it can't be waived. Many times the judges are waving the \$300.00 fine. But we stand in support of what we can do to toughen the uninsured drivers of the state.

SENATOR COOK Can you explain SR22?

KENT OLSON The SR22 usually means a DUI or another driving problem. It is a requirement that you have to have insurance and maintain proof of insurance for one year as a result of a DUI. The proof of insurance that is given to the Department of Transportation; it is called a SR22 form and it allows the violator to drive.

SENATOR COOK If you're driving with an SR22 and are pulled over, how does the officer know you have insurance at that point.

KENT OLSON The driver's license has a six on it that shows it's a SR22. There is no requirement that I need to have proof of insurance in my vehicle but I have to provide it within 20 days.

SENATOR COOK Can an officer call and prove that a driver doesn't have insurance?

KENT OLSON I don't know. Another deterrent is the driver's license which is more important than the insurance.

TERRY WEIS, NORTH DAKOTA ASSOCIATION OF LIFE UNDERWRITERS, testified in support of SB 2262 and 2406 (see testimony).

TOM SMITH, DOMESTIC INSURANCE COMPANY I support SB 2406 with a minor amendment which on page 3 and delete line 3 through 8. A few years back, we were looking at how one would enforce the compulsory action of a law. One of the things we looked at was taking action on a person's driver's license. Put into the law when you go to title your vehicle, you have to certify that you have insurance by giving the name of your company and policy number. As the years have gone by you start talking about driving without liability coverage and it's all tied together. We also looked at a notification system; should the insurance companies be required to report should there be a cancellation or non renewal (he explained the difference between cancellation and non renewals).

end of Tape 1, start tape 2

If there is a cancellation for a DUI or a cancellation for nonpayment, we notify the Department of Transportation and the same thing for a non renewal.

SENATOR COOK What you're saying is one of the reasons many people don't have insurance is a financial matter. They are good drivers. You're suggesting then that we don't group them with people who normally fall under a SR22 and pay high insurance.

TOM SMITH I don't feel if someone drives without liability insurance that they should be put in a high risk category in their insurance. If that person gets picked up for no liability insurance and he has a couple of speeding violations that may cause him to pay an increased premium or high risk.

DICK PECK, ND POLICE OFFICER'S ASSOCIATION testified in support of SB 2406 and 2262. I'd like to see the insurance companies notify the Department of Transportation when an individual cancels their insurance policy.

SENATOR COOK In Florida, when someone is picked up without insurance the officer pulls the plates off of a car. What would police officers think of that law?

DICK PECK It's a step in the right direction because now that the license plate is assigned to the individual and not the car that might be a way to use.

JIM VUKELIC testified on his own behalf in opposition to SB 2262. My concern has been addressed by a proposed amendment from Senator Tomac which essentially does away with the increases in the minimum mandatory penalties. During the 20 years I've been a judge many were prosecuted for no liability insurance. Most plead guilty because of two elements: (1) they were driving (2) they have no insurance. If someone comes in and says I'm not guilty, prove that I didn't have insurance and did not admit it then the prosecutor has to prove that they don't have insurance. Another thing I can tell you is that the people in court without liability insurance are poor. This is mainly the reason why they don't have insurance and when they are sentenced the

minimum mandatory sentence is \$150 fine. Now that is being proposed to double. Many are from the reservations and some have told me that they are not required to have liability on the reservation but it is state law off of the reservation. The only way it comes to the attention of the officer is if there has been a violation or an accident.

When they come into my court, they plead guilty and I sentence them. I give them a fine and then give them six months to pay the fine. If they don't pay the fine, because most of the time they don't have the money and that happens a lot, we have to spend time and money to get the person back into court to explain why they haven't paid the fine. Most of the time, they don't have the money and we cannot put people in jail because they don't have the money. This has been upheld by the Supreme Court. So, if you're going to double the fine, you are increasing the expense for the state. The driver's license is definitely more of a deterrent. If you are going to amend the statute increasing the fine from \$150 to \$300 is not the answer. Many times, I impose the community service hours in lieu of a fine, not in these cases because I can't, but in other offenses. That is a good use of community service. If you amend the statute at all, then remove the language that says "\$150 which may not be suspended". If you want to retain that language then add "unless the reasons for suspending all or part of the sentence are placed on record by the court". You have, as the legislature, done that in other cases (he told a story).

SENATOR COOK Have you had a situation besides the \$150 fine to require they pay restitution for the vehicle damage they caused not covered by insurance?

JIM VUKELIC Yes and I think that is fair.

LYNN HEINERT, SUPERVISOR OF SUSPENSIONS AND RECORD SECTION FOR DRIVER'S LICENSE AND TRAFFIC SAFETY testified in a neutral position. I'm here to answer any questions you may have.

SENATOR COOK Should we have seen a fiscal note?

SENATOR B. STENEHJEM Yes, there is a fiscal note on 2406.

SENATOR COOK I assume that \$2 million is administrating the last part of that bill.

SENATOR B. STENEHJEM It is not possible to accurately determine the administrative cost of this bill, however it is likely it will cost \$2 million per biennium to administer the provisions of this bill (read from the fiscal note).

SENATOR COOK Can we pursue what that might be if all we were dealing with is those who were arrested for not having insurance and convicted?

SENATOR B. STENEHJEM Yes.

LYNN HEINERT If the bill were amended to eliminate section 3, the dollar amount to implement just requiring the filing of liability insurance for those drivers who were convicted of no liability insurance, it would be approximately \$25,000 which would be for software programming needed to accomplish this.

SENATOR COOK This is 24 hours a day and 7 days a week where someone could acquire that information?

LYNN HEINERT Yes.

SENATOR B. STENEHJEM SB 2406 would require all drivers to provide proof of insurance, require all insurance companies to notify the Department of Transportation of cancellations and terminations. Have you had time to review the amendment I proposed?

LYNN HEINERT Yes.

SENATOR B. STENEHJEM I have proposed an amendment that would state anyone convicted of driving without liability insurance would receive a notice from the Department of Transportation that requires them to come into the Department and provide proof of insurance. If they proved they had insurance they would get a restricted driver's license and pay the driver's license fee and for a period of three years they would be driving with a restricted driver's license saying they're required to prove their insurance. The insurance companies within that three year period would notify the Department of a lapse of insurance at which time the Department will notify the driver to come in with proof of insurance or they will have their license suspended. When the policy expires, they need to provide proof of insurance for a three year period. Then they could come in and get a unrestricted driver's license. The moment anyone is stopped, the driver's license would show restrictions. The intent of this legislation is not to force anyone into the high risk part of insurance but to provide insurance on the vehicle that they are operating for the minimum requirements of the state of North Dakota.

LYNN HEINERT The procedure with this amendment would be the same as a SR22 but they would not be in the high risk category, it would be the insurance liability policy.

SENATOR THOMPSON Is there any concern on the individual who has a commercial license when they are trying to drive truck for a living but get pulled over on a regular license and do not have liability insurance?

LYNN HEINERT We are calling this "Motor Vehicle Liability Insurance". The high risk are called financial responsibility.

SENATOR B. STENEHJEM The amendment makes sure that doesn't happen. There is no need to force them into that category.

LYNN HEINERT We would not have the driver's license expire different than it does now. If they are due to get restriction removed they can come in to get it removed and renewed.

SENATOR B. STENEHJEM Would that be for \$8.00?

LYNN HEINERT I believe under the amendment you proposed it would be \$50 in the middle of that renewal period.

SENATOR B. STENEHJEM Is there any other testimony?

SENATOR B. STENEHJEM We will close the hearings on SB 2262 and SB 2406.

Tape #2, February 4, 1999

SENATOR B. STENEHJEM reviewed the newest amendment. In this bill, If someone loans you a vehicle and it's not insured, they can go back and get the owner of the vehicle.

SENATOR COOK Can the owner of the vehicle be charged?

SENATOR B. STENEHJEM Yes.

SENATOR THOMPSON I move to adopt the amendment proposed by Senator Bob Stenehjem.

SENATOR COOK I second that motion.

The amendment was unanimously adopted.

SENATOR THOMPSON I listened to the judge's testimony. I think the dollar amounts before us are okay.

SENATOR COOK Have we removed the 20 days yet?

SENATOR B. STENEHJEM No.

SENATOR COOK This will create proof of motor vehicle liability.

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SENATOR COOK I move for a Do Not Pass.

SENATOR SCHOBINGER I second that motion.

A roll call vote was taken (6 Yeas, 0 Nays and 1 Absent and Not Voting.)

Senator Cook will carry SB 2262.

January 26, 1999

PROPOSED AMENDMENTS TO SENATE BILL NO. 2262

Page 1, line 2, remove "the penalty for"

Page 1, line 6, after the second period insert:

"1."

Page 1, line 19, remove the overstrike over "~~one~~" and remove "three"

Page 1, line 20, remove the overstrike over "~~fifty~~" and remove "and community service of sixteen hours"

Page 1, line 22, remove the overstrike over "~~three~~", remove "six", and remove "and"

Page 1, line 23, remove "community service of thirty-two hours"

Page 1, after line 23, insert:

- "2. Upon conviction for a violation of this section, the court shall take possession of the defendant's operator's license and shall send the license and a copy of the sentencing document to the department. If the defendant has valid operating privileges, the court shall issue a temporary operator's permit extending privileges for the next twenty-five days. At the end of twenty-five days the defendant's operator's license is canceled unless before that time the defendant provides the department with proof of financial responsibility as defined in section 39-16.1-02 in a manner consistent with chapter 39-16.1 before the cancellation date. A license canceled under this section may not be reissued unless there is proof of financial responsibility as defined in section 39-16.1-02. If the defendant's operator's license is suspended for a violation of this section, the defendant shall provide the department proof of financial responsibility as defined in section 39-16.1-02 before the department may reinstate driving privileges.
3. An insurance carrier shall provide notification in a manner consistent with section 39-16.1-12."

Renumber accordingly

Date: February 11, 1999
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2262

Senate Transportation Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Sen. Cook Seconded By Sen. Schobinger

Senators	Yes	No	Senators	Yes	No
Sen. B. Stenejem-Chairman	X				
Sen. R. Schobinger-V. Chair	X				
Sen. Duane Mutch	X				
Sen. Dwight Cook	X				
Sen. David O'Connell	X				
Sen. Vern Thompson	X				
Sen. Dennis Bercier					

Total (Yes) 6 No 0

Absent 1

Floor Assignment Sen. Cook

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 12, 1999 3:28 p.m.

Module No: SR-29-2820
Carrier: Cook
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2262: Transportation Committee (Sen. B. Stenehjem, Chairman) recommends DO NOT PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2262 was placed on the Eleventh order on the calendar.

1999 TESTIMONY

SB 2262

ANNUAL REPORT FOR YEAR OF 1998
MANDAN POLICE DEPT.

TRAFFIC ENFORCEMENT ACTIVATED STATISTICS 3962 3377

TRAFFIC CITATIONS ISSUED:

	1992	1993	1994	1995	1996	1997	1998
Total Number of Traffic Citations:	3,501	3,440	3,528	4,063	4,583	3,962	3,377
Driving Under the Influence	154	230	278	313	260	198	202
Speeding	1,990	1,986	1,927	1,540	1,807	1,840	2146
Stop Sign/red light	145	267	288	306	257	277	255
Care Required	166	243	218	234	218	173	233
Driving While Suspended	—	260	256	296	249	212	200
No Registration	163	215	225	158	173	161	259
Minor in possession	79	63	90	24	53	83	15
Reckless Driving	10	8	14	10	9	7	4
Failure to Yield	67	59	35	48	41	30	13
No Liability Insurance	78	155	168	138	150	183	174
Exhibition Driving	26	2	37	46	36	35	42
Leaving the Scene of Accident	14	73	11	17	7	15	5
Fleeing/eluding police	-	-	-	-	6	9	6
No Seat Belt or Child Restraint	90	123	80	60	35	26	43
Open Container	-	-	79	70	58	45	58

(NOTE: THE SPECIFIC VIOLATIONS LISTED DO NOT CONTAIN ALL TYPES OF TRAFFIC OFFENSES)

Written Warnings issued to Violators— 678 892 1,155 844 1,422 1,350 2,612

ACCIDENT STATISTICS:

	1992	1993	1994	1995	1996	1997	1998
TOTAL # TRAFFIC ACCIDENTS:	570	742	934	810	912	698	640
INJURY ACCIDENTS	31	35	59	53	57	38	36
HIT AND RUN ACCIDENTS	102	178	215	173	171	120	144
FATALITIES FROM ACCIDENTS	-0-	-0-	1	-0-	-0-	-0-	-0-
STATE REPORTABLE	167	229	340	338	437	267	331
NON-REPORTABLE	301	335	379	299	304	273	309

Highway Patrol (64) - 1998

SUMMARY CITATION LOG
BY
OFFENSE CODE

Offense code	Citations issued	Fines	Amount paid
0010	3	20.00	0.00
0024	10	100.00	0.00
39-04-11	3	0.00	0.00
39-04-37	4	60.00	0.00
39-06-01	24	440.00	0.00
39-06-14	1	0.00	0.00
39-06-16	2	0.00	0.00
39-06-17	1	250.00	0.00
39-06-42	62	15502.00	0.00
39-06-44	1	10.00	0.00
39-06-45	2	20.00	0.00
39-06.1-03	1	0.00	0.00
39-08-01	59	21535.00	0.00
39-08-03	4	750.00	0.00
39-08-03.1	17	750.00	0.00
39-08-04	1	500.00	0.00
39-08-07	1	0.00	0.00
39-08-09	6	300.00	0.00
39-08-18	49	2350.00	0.00
Jo Hab. Ins. 39-08-20	12	210.00	0.00
39-09-01	12	210.00	0.00
39-09-01.1	52	920.00	0.00
39-09-02	706	7911.00	0.00
39-10-05	8	80.00	0.00
39-10-08	1	0.00	0.00
39-10-13	2	20.00	0.00
39-10-14	1	20.00	0.00
39-10-15	2	20.00	0.00
39-10-18	2	20.00	0.00
39-10-22	2	20.00	0.00
39-10-23	1	20.00	0.00
39-10-24	3	40.00	0.00
39-10-25	1	20.00	0.00
39-10-26	1	0.00	0.00
39-10-41	2	20.00	0.00
39-10-44	37	360.00	0.00
39-10-46.1	2	100.00	0.00
39-10-49	6	0.00	0.00
39-10-59	3	60.00	0.00
39-10-71	4	1500.00	0.00
39-10.2-02	1	20.00	0.00
39-10.2-06	2	40.00	0.00
39-21-01	26	20.00	0.00
39-21-03	7	0.00	0.00
39-21-04	36	0.00	0.00
39-21-12	1	0.00	0.00
39-21-21	2	0.00	0.00