

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

11809

2001 HOUSE TRANSPORTATION

HB 1189

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1189

House Transportation Committee

☐ Conference Committee

Hearing Date January 19, 2001

Tape Number	Side A	Side B	Meter #
1	x		1,490
Committee Clerk Signature <i>Louise B. Fink</i>			

Minutes: Rep. Weisz - Chairman opened the hearing on HB 1189; A BILL for an Act to amend and reenact section 39-06-20, subsection 6 of section 39-06-32, subsection 1 of section 39-06-33, section 39-06.1-04, subsection 2 of section 39-06.1-13, section 39-16.1-01, subsection 2 of section 39-20-03.2, and subsection 1 of section 39-20-05 of the North Dakota Century Code, relating to notice of change of address for an operator's license or permit, suspension for failure to appear in court or post and forfeit bond, means to request a hearing, reduction of point total, proof of financial responsibility, serving results of a blood test on a nonresident operator, and extension of a temporary operator's permit.

Keith Magnusson, Director, Office of Driver and Vehicle Services, North Dakota Department of Transportation explained and testified for HB 1189, a DOT sponsored bill. A copy of his written testimony is attached.

Rep. Mahoney: (2926) This is on the wording on one of your -- in section 7 you talk about shall

issue or mail personal seervice -- technically, should that be "personally serve" because that is what you are getting at, but you don't often see any more 'issue' or serve often in the criminal code.

Keith Magnusson: Issue is the word you use when dealing with North Dakota residents or North Dakota drivers. That is just the way its set out -- that is used in 39-20-02. 2.

Rep. Weisz - Chairman (3123) closed the hearing for testimony on HB 1189 inasmuch there was no one who came forward to testify for or against HB 1189.

Discussion followed:

Rep. Mahoney I move that we amend HB 1189 in the manner the DOT recommends, that is, in sec 5 page 3, replace " or the drivers' license has been canceled for" with "or, as a minor, the licensee's driving record contains six points or more" and on page 5, line 5, remove "excess points pursuant to section 30-06-01.1".

Rep. Hawken : I second the motion.

On a voice vote the motion carried.

Rep. Kelsch: I move a "Do Pass as amended " HB 1189.

Rep. Jensen: I second the motion.

Roll Call Vote: 12 yeas 0 nays 2 absent

Rep. Pollert - Vice Chairman was designated to carry HB 1189 on the floor.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1189

Sec 5 P 3

Page 5, line 14, replace "or the drivers's license has been canceled for" with "or, as a minor, the
licensee's driving record contains six points or more"

Page 5, line 15, remove "excess points pursuant to section 39-06-01.1"

Renumber accordingly

18255.0101
Title.0200

Adopted by the Transportation Committee
January 19, 2001

VR
1/19/01

House Amendments to HB 1189 Htrn 1-22-01

Page 3, line 14, replace "the driver's license has been canceled for" with "as a minor, the licensee's driving record contains six points or more"

Page 3, line 15, remove "excess points pursuant to section 39-06-01, 1"

Renumber accordingly

Date: January 19, 2001
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1189

House Transportation Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Rep. Kelsch Seconded By Rep. Jensen

Representatives	Yes	No	Representatives	Yes	No
Robin Welsz - Chairman	✓		Howard Grumbo	✓	
Chet Pollert - Vice Chairman	✓		John Mahoney	✓	
Al Carlson	✓		Arlo E. Schmidt	✓	
Mark A. Dosch	✓		Elwood Thorpe	✓	
Kathy Hawken	✓				
Roxanne Jensen	✓				
RaeAnn G. Kelsch	✓				
Clara Sue Price	A				
Dan Ruby	A				
Laurel Thoreson	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Pollert

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

REPORT OF STANDING COMMITTEE

HB 1189, as engrossed: Transportation Committee (Rep. Welez, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1189 was placed on the Sixth order on the calendar.

Page 3, line 14, replace "the driver's license has been canceled for" with ", as a minor, the licensee's driving record contains six points or more"

Page 3, line 15, remove "excess points pursuant to section 39-06-01.1"

Renumber accordingly

2001 SENATE TRANSPORTATION

HB 1189

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1189

Senate Transportation Committee

☐ Conference Committee

Hearing Date 3-9-01;3-15-01

Tape Number	Side A	Side B	Meter #
1	x		21.2-41.2
3-15 2	x		4.9-9.6
Committee Clerk Signature <i>Suzette Schfer</i>			

Minutes: HB 1189 relates to notice of change of address for an operator's license or permit, suspension for failure to appear in court or post and forfeit bond, means to request a hearing, reduction of point total, proof of financial responsibility, serving results of a blood test on a nonresident operator, and extension of a temporary operator's permit.

Kelth Magnusson: (Office of Driver and Vehicle Services; Supports) See attached testimony.

Senator Trenbeath: What offenses no longer require a signature for promise to appear?

Lynn Helnert: (Manager of Driver and Improvement Services; Supports) Criminal traffic offenses such as DUI, DUS, and leaving the scene of an accident require a court appearance. It is the non signature criminal traffic offenses such as speeding, failing to stop for stop sign, etc. that no longer require the of the driver. On the citation that the driver receives, it gives them 14 days to request court appearance or post statutory fee and not appear in court.

Senator Trenbeath: Why the change that you no longer have to sign the "Promise to Appear"?

Lynn Helnert: I do not know what the reasoning behind that was.

Page 2
Senate Transportation Committee
Bill/Resolution Number HB 1189
Hearing Date 3-9-01;3-15-01

Senator O'Connell: Explain the amendment.

Keith Magnusson: It's to clear up and put in better language.

Bruce Murry: (Attorney from Bismarck; Lobbyist #62; Supports) See attached testimony and proposed amendment.

Senator Trenbeath: What portion of the clearly stated procedure did your client not understand?

Calvin Bieckler: When they give you the ticket on the road and a temporary drivers license to put in the glove box, you have to read every little word on the back of the ticket with a microscope to understand. You could miss that easily. I wasn't notified by DOT to go to court.

Hearing closed.

Committee reopened on 3-15-01.

Senator Stenehjem hands our proposed amendment.

Discussion held. Senator Trenbeath motions to accept the proposed amendment. Seconded by Senator Bercier. Roll call taken. 6-0-0. Senator Trenbeath motions to Do Pass as amended on engrossed HB 1189. Seconded by Senator Bercier. Roll call taken. 6-0-0. Floor carrier is Senator Espgaard.

Committee closed.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1189

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 26.1-40 of the North Dakota Century Code, relating to cancellation of a minor's driving privileges; and"

Page 1, line 2, replace the second "section" with "sections 39-06-35 and"

Page 1, line 6, after the first comma insert "suspended licenses,"

Page 1, after line 8, insert:

"SECTION 1. A new section to chapter 26.1-40 of the North Dakota Century Code is created and enacted as follows:

Cancellation of minor's driving privileges - Effect. An insurer may not use or rely on the cancellation of a minor's driving privileges under section 39-06-01.1 as a reason to cancel, deny, or not renew the automobile insurance policy of the minor or a parent of the minor."

Page 2, after line 19, insert:

"SECTION 2. AMENDMENT. Section 39-06-35 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-06-35. Period of suspension. When the period of suspension imposed under this title ceases, the operator's license or driving privilege that has been suspended may not be returned or reinstated, and remains under suspension, until the operator pays to the director a reinstatement fee of fifty dollars, or twenty-five dollars if the suspension was the result of a suspension under subsection 4, 5, or 7 of section 39-06-03 or subsection 2 of section 39-06-32, or one hundred dollars if the suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if applicable, until compliance with subsection 3.1 of section 39-06.1-10. Upon payment of the reinstatement fee the license must be returned to the operator. A reinstatement fee is not required for a license to be returned to the operator if the return of the license is due to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter 39-06, 39-06.1, or 39-20."

Renumber accordingly

3-15
#1

1189

Committee

☐ Conference Committee

18255.0201

Mass Hysteria of Amer

Trenbath Seconded
By Berwick

[illegible]

6 No 0

Floor Assignment

Section 1. Section 5

Roll Call Vote #:

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *1000*

Senate Transportation

Committee

☐ Subcommittee on

or

☐ Conference Committee

Legislative Council Amendment Number

Action Taken

Motion Made By

Secondded

By

[illegible]

Total (Yes) 10 No 0

Absent 0

Floor Assignment E-Space

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

REPORT OF STANDING COMMITTEE

HB 1189, as engrossed: Transportation Committee (Sen. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1189 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 26.1-40 of the North Dakota Century Code, relating to cancellation of a minor's driving privileges; and"

Page 1, line 2, replace the second "section" with "sections 39-06-35,"

Page 1, line 6, after the first comma insert "suspended licenses,"

Page 1, after line 8, insert:

"SECTION 1. A new section to chapter 26.1-40 of the North Dakota Century Code is created and enacted as follows:

Cancellation of minor's driving privileges - Effect. An insurer may not use or rely on the cancellation of a minor's driving privileges under section 39-06-01.1 as a reason to cancel, deny, or not renew the automobile insurance policy of the minor or a parent of the minor."

Page 2, after line 19, insert:

"SECTION 5. AMENDMENT. Section 39-06-35 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-06-35. Period of suspension. When the period of suspension imposed under this title ceases, the operator's license or driving privilege that has been suspended may not be returned or reinstated, and remains under suspension, until the operator pays to the director a reinstatement fee of fifty dollars, or twenty-five dollars if the suspension was the result of a suspension under subsection 4, 5, or 7 of section 39-06-03 or subsection 2 of section 39-06-32, or one hundred dollars if the suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if applicable, until compliance with subsection 3.1 of section 39-06.1-10. Upon payment of the reinstatement fee the license must be returned to the operator. A reinstatement fee is not required for a license to be returned to the operator if the return of the license is due to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter 39-06, 39-06.1, or 39-20."

Renumber accordingly

2001 HOUSE TRANSPORTATION

CONFERENCE COMMITTEE

HB 1189

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1189 - Conf.

House Transportation Committee

☐ Conference Committee

Hearing Date April 3, 2001

Tape Number	Side A	Side B	Meter #
3	x		
Committee Clerk Signature <i>Lawrence B. Fink</i>			

Conference Committee Minutes:

Conference committee: Rep. Kelsch - Chairman Sen. Trenbeath
 Rep. Hawken Sen. Stenehjem
 Rep. Schmidt Sen. O'Connell

Rep. Kelsch- Chairman called for the roll. All members were present.

Sen. Stenehjem carried 3 drafts of proposed amendments. The amendments carried LC numbers and were referred to as amendments - 202, 203, and 204 as referenced by the last 4 digits of the whole LC number. Sen. Stenehjem explained each. He favored '204'. Basically there were 2 parts - the effect of the cancellation of the minors driving privileges -- what that one say and it was modeled after another one -- it is in the Century Code some where else relative to non-criminal traffic violation where the insurance could not cancel somebody's insurance for a non-traffic violation. There are proposed changes for that included - - the second part which is

section 5, is an amendment that drivers license brought over to the Senate. As will recall last session we doubled all drivers license reinstatement fees -- one we doubled was the -- if your license was suspended for medical reasons like epilepsy or your foot was broken -- something that they had to take away -- it was \$50 to reinstate -- we in the Senate thought that should remain at the \$25 it had always been.

Rep. Kelsch- Chairman: We don't like 202 and 203.

Sen. Stenehjem: Lets go to 202. Simply states the insurance companies may not rely on or use an accumulation of 7 points or fewer points resulting in the cancellation of a minors driving privileges and for reasons to cancel or deny or not renew automobile insurance. That is that one. Amendment number 203 simply says the an insurer may not use or reply on the cancellation of minor's driving privileges as a reason to cancel or deny or not renew a minors - - what this one does -- go back to 202 --because you had your license canceled they couldn't cancel you insurance, basically-- but what if their license was canceled for a hit and run or a death -- then I think the insurance company should have the right to cancel coverage -- that is why amendment 203 came up -- which would still allow them to get that -- Amendment 204 "if a individuals license or permit is canceled under section 1 the cancellation may not be entered on the driving record but must be recorded separately and the separate record may not be available to the public." In other words there is part of the driving that is screened -- the insurance companies would be able to get all of your violations -- speeding, 45 in a 25 , or DUI or open container. whatever offenses are -- they would see all those but could not see if it was canceled or not. But they would still know if it was suspend or revoked.

Rep. Kelsch- Chairman so it could still be cackled?

Sen. Stenehjem: Correct

Rep. Hawken: So what difference does that make?

Sen. Stenehjem: Well we are telling the insurance company that there may be some things on there that do not effect the insurance.

Rep. Kelsch-Chairman as I said I don't like 202 and I don't like -- I think 204.

Sen. Stenehjem: I would agree because the insurance companies are going to be able to check you record and they are going to see what offenses and what they are for-- I they have questions - they still have the right and justifiably so but just because their license was canceled.

Rep. Hawken: Will this help -- 203 or 204 ?

Rep. Kelsch-Chairman: We have some insurance people here -- Mr. Ward would you try to address this.

Pat Ward: A Bismarck lawyer representing independent insurance companies -- 202 and 203 are similar. I guess (after some discourse) that we or I would prefer 204 for what you are trying to do.

Sen. Trenbeath: Are we trying to accomplish -- trying to limit the perceived practice of insurance companies raising rates or canceling coverage because of cancellation a minor's driver's License and we are trying to get to that point where this practice doesn't occur -- they certainly should be able to adjust rates based on violations -- but not purely from the standpoint from the fact of the cancellation.

Note: The committee appeared to all agree.

Sen. Stenehjem I will move the amendment to HB 1189 numbered 18255.0204 .

Rep. Hawken: I second the motion.

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House Transportation Committee
Bill/Resolution Number HB 1189 - Conf.
Hearing Date April 3, 2001

Rep. Kelsch-Chairman: We now have an amended House bill in front of us what is your wish?

Rep. Schmidt: I move HB 1189 as amended as a "Do Pass".

Sen. Stenhjem I will second that.

Sen. Trenbeath: A point of procedure, since this bill had been amended in the Senate shouldn't the Senate be receding from the Senate amendments? And further amend.

Rep. Kelsch - Chairman: Yes you will note that the LC drafted amendment has the proper wording in it receding from the amendments on certain pages in the journals, etc.

On a roll call vote the motion carried unanimously. 6 yeas 0 nays.

Senator Trenbeath will carry the amended bill in the Senate and Rep. Kelsch will carry the amended bill in the House.

Ended (1171).

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1189 Conf. B

House Transportation Committee

☐ Conference Committee

Hearing Date April 5, 2001

Tape Number	Side A	Side B	Meter #
2	x		32
Committee Clerk Signature <i>Laurie B. Fink</i>			

Conference Committee Minutes:

Conference Committee: Rep. Kelsch Sen. Trenbeath
 Rep. Hawken Sen. Stenehjem
 Rep. Schmidt Sen. O'Connell

Rep. Kelsch- Chairman: Called for the roll. All were present.

Sen. Stenehjem I move that we reconsider our action by which we amended and passed HB 1189 as in conference committee report.

Sen. Trenbeath seconded the motion.

Motion carried unanimously on a voice vote.

Rep. Kelsch- Chairman: The amendment we passed on this bill yesterday was unworkable for the drivers license division. Basically what it would have done is it would have protected the driver from the insurance company -- the cancellation would not have shown up to law enforcement. In other words a kid could have been driving with a canceled license and law

Page 2
House Transportation Committee
Bill/Resolution Number HB 1189
Hearing Date April 5, 2001

enforcement would take a look at it and may give him a speeding ticket not ever knowing that his license was canceled. So it posed a real problem for the driver's license division. We have another amendment to propose --

Sen. Stenehjem I move that we remove the amendment 18255.0204 ---

Sen. Trenbeath I second.

Motion carried unanimously on a voice vote.

Sen. Stenehjem I move the Senate recede from its amendments as printed on 1025 of the House Journal and pages 856 and 857 in Senate Journal and engrossed bill 1189 be amended as follows in number 18255.0205.

Sen. O'Connell I second.

Motion carried unanimously on a voice vote.

Rep. Kelsch-Chairman we now have an amended bill and what the amendment does is -- it says that the insurance companies can not use as a sole reason the cancellation of a minor's license due to the points. If a license were to be canceled it would have to be a minor in possession or something like and they would have to validate why they were canceling the insurance or raising the rates.

Sen. O'Connell do we need an emergency clause?

Sen. Stenehjem I would further move to add the emergency clause.

Sen. O'Connell second.

Motion carried unanimously on a voice vote.

Rep. Hawken I move a 'Do Pass on HB 1189 as amended'.

Sen. Stenehjem this the amendment 18255.0205 and the emergency clause added correct. The

Page 3
House Transportation Committee
Bill/Resolution Number HB 1189
Hearing Date April 5, 2001

answer was affirmative -- then I so move.

On a roll call vote the motion carried: 6 yeas 0 nays.

Rep. Kelsch will carry the bill for the House and Senator Trenbeath HB 1189 on the Senate floor.

End. (467)

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1189

That the Senate recede from its amendments as printed on page 1025 of the House Journal and pages 856 and 857 of the Senate Journal and that Engrossed House Bill No. 1189 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 26.1-40 of the North Dakota Century Code, relating to cancellation of a minor's driving privileges; and"

Page 1, line 2, replace the second "section" with "sections 39-06-35,"

Page 1, line 6, after the first comma insert "suspended licenses,"

Page 1, after line 8, insert:

"SECTION 1. A new section to chapter 26.1-40 of the North Dakota Century Code is created and enacted as follows:

Cancellation of minor's driving privileges - Effect. An insurer may not use or rely on the accumulation of seven or fewer points resulting in the cancellation of a minor's driving privileges under section 39-06-01.1 as the sole reason to cancel, deny, or not renew the automobile insurance policy of the minor or a parent of the minor."

Page 2, after line 19, insert:

"SECTION 5. AMENDMENT. Section 39-06-35 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-06-35. Period of suspension. When the period of suspension imposed under this title ceases, the operator's license or driving privilege that has been suspended may not be returned or reinstated, and remains under suspension, until the operator pays to the director a reinstatement fee of fifty dollars, or twenty-five dollars if the suspension was the result of a suspension under subsection 4, 5, or 7 of section 39-06-03 or subsection 2 of section 39-06-32, or one hundred dollars if the suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if applicable, until compliance with subsection 3.1 of section 39-06.1-10. Upon payment of the reinstatement fee the license must be returned to the operator. A reinstatement fee is not required for a license to be returned to the operator if the return of the license is due to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter 39-06, 39-06.1, or 39-20."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1189

That the Senate recede from its amendments as printed on page 1025 of the House Journal and pages 856 and 857 of the Senate Journal and that Engrossed House Bill No. 1189 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 26.1-40 of the North Dakota Century Code, relating to cancellation of a minor's driving privileges; and"

Page 1, line 2, replace the second "section" with "sections 39-06-35."

Page 1, line 6, after the first comma insert "suspended licenses,"

Page 1, after line 8, insert:

"SECTION 1. A new section to chapter 26.1-40 of the North Dakota Century Code is created and enacted as follows:

Cancellation of minor's driving privileges - Effect. An insurer may not use or rely on the cancellation of a minor's driving privileges under section 39-06-01.1 as a reason to cancel, deny, or not renew the automobile insurance policy of the minor or a parent of the minor unless the points or offenses on the minor's public driving record, separate from a cancellation under section 39-06-01.1, would be a reason to cancel, deny, or not renew the policy.

Page 2, after line 19, insert:

"SECTION 5. AMENDMENT. Section 39-06-35 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-06-35. Period of suspension. When the period of suspension imposed under this title ceases, the operator's license or driving privilege that has been suspended may not be returned or reinstated, and remains under suspension, until the operator pays to the director a reinstatement fee of fifty dollars, or twenty-five dollars if the suspension was the result of a suspension under subsection 4, 5, or 7 of section 39-06-03 or subsection 2 of section 39-06-32, or one hundred dollars if the suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if applicable, until compliance with subsection 3.1 of section 39-06.1-10. Upon payment of the reinstatement fee the license must be returned to the operator. A reinstatement fee is not required for a license to be returned to the operator if the return of the license is due to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter 39-06, 39-06.1, or 39-20."

Renumber accordingly

VR
4/3/01

CONFERENCE COMMITTEE AMENDMENTS to Engrossed HB 1189 HTRN 4-03-01

That the Senate recede from its amendments as printed on page 1025 of the House Journal and pages 856 and 857 of the Senate Journal and that Engrossed House Bill No. 1189 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact a new subsection to section 39-06-01.1 of the North Dakota Century Code, relating to cancellation of a minor's driving privileges; and"

Page 1, line 2, replace the second "section" with "sections 39-06-35,"

Page 1, line 6, after the first comma insert "suspended licenses,"

CONFERENCE COMMITTEE Amendments to Engrossed HB 1189 HTRN 4-03-1

Page 2, after line 19, insert:

"SECTION 4. AMENDMENT. Section 39-06-35 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-06-35. Period of suspension. When the period of suspension imposed under this title ceases, the operator's license or driving privilege that has been suspended may not be returned or reinstated, and remains under suspension, until the operator pays to the director a reinstatement fee of fifty dollars, or twenty-five dollars if the suspension was the result of a suspension under subsection 4, 5, or 7 of section 39-06-03 or subsection 2 of section 39-06-32, or one hundred dollars if the suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if applicable, until compliance with subsection 3.1 of section 39-06.1-10. Upon payment of the reinstatement fee the license must be returned to the operator. A reinstatement fee is not required for a license to be returned to the operator if the return of the license is due to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter 39-06, 39-06.1, or 39-20.

SECTION 5. A new subsection to section 39-06-01.1 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

If an individual's license or permit is canceled under subsection 1, the cancellation may not be entered on the driving record but must be recorded separately and the separate record may not be available to the public."

Renumber accordingly

4/3/01

HB 1189

TRANSPORTATION



X

Legislative Council Amendment Number

Action Taken

Motion Made By

[illegible]

Total

Absent

Floor Assignment

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

VR
4/5/01

CONFERENCE COMMITTEE AMENDMENTS to engrossed HB 1189 HTRN 4-06-01

That the Senate recede from its amendments as printed on page 1025 of the House Journal and pages 856 and 857 of the Senate Journal and that Engrossed House Bill No. 1189 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 26.1-40 of the North Dakota Century Code, relating to cancellation of a minor's driving privileges;"

Page 1, line 2, replace the second "section" with "sections 39-06-35,"

Page 1, line 6, after the first comma insert "suspended licenses,"

Page 1, line 7, after "permit" insert "; and to declare an emergency"

Page 1, after line 8, insert:

"SECTION 1. A new section to chapter 26.1-40 of the North Dakota Century Code is created and enacted as follows:

Cancellation of minor's driving privileges - Effect. An insurer may not use or rely on the cancellation of a minor's driving privileges under section 39-06-01.1 as the sole reason to cancel, deny, or not renew the automobile insurance policy of the minor or a parent of the minor unless the points or offenses on the minor's public driving record, separate from a cancellation under section 39-06-01.1, would be a reason to cancel, deny, or not renew the policy."

CONFERENCE COMMITTEE AMENDMENTS to engrossed HB 1189 HTRN 4-06-01

Page 2, after line 19, insert:

"SECTION 5. AMENDMENT. Section 39-06-35 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-06-35. Period of suspension. When the period of suspension imposed under this title ceases, the operator's license or driving privilege that has been suspended may not be returned or reinstated, and remains under suspension, until the operator pays to the director a reinstatement fee of fifty dollars, or twenty-five dollars if the suspension was the result of a suspension under subsection 4, 5, or 7 of section 39-06-03 or subsection 2 of section 39-06-32, or one hundred dollars if the suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if applicable, until compliance with subsection 3.1 of section 39-06.1-10. Upon payment of the reinstatement fee the license must be returned to the operator. A reinstatement fee is not required for a license to be returned to the operator if the return of the license is due to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter 39-06, 39-06.1, or 39-20."

CONFERENCE COMMITTEE AMENDMENTS to engrossed HB 1189 HTRN 4-06-01

Page 4, after line 24, insert:

"SECTION 11. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Roll Call Vote

4/5/01

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1189

House **TRANSPORTATION** Committee

☐ Subcommittee on _____
or _____

☒ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as presented & add Emory

Motion Made By _____ **Seconded By** _____

[illegible]

Total (Yes) 6 No 0

Absent

Floor Assignment Kelsch / Neunhardt

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

REPORT OF CONFERENCE COMMITTEE

HB 1189, as engrossed: Your conference committee (Sens. Trenbeath, Stenohjem, O'Connell and Reps. R. Kelsch, Hawken, Schmidt) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 856-857, adopt further amendments as follows, and place HB 1189 on the Seventh order:

That the Senate recede from its amendments as printed on page 1025 of the House Journal and pages 856 and 857 of the Senate Journal and that Engrossed House Bill No. 1189 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 26.1-40 of the North Dakota Century Code, relating to cancellation of a minor's driving privileges;"

Page 1, line 2, replace the second "section" with "sections 39-06-35,"

Page 1, line 6, after the first comma insert "suspended licenses,"

Page 1, line 7, after "permit" insert "; and to declare an emergency"

Page 1, after line 8, insert:

"SECTION 1. A new section to chapter 26.1-40 of the North Dakota Century Code is created and enacted as follows:

Cancellation of minor's driving privileges - Effect. An insurer may not use or rely on the cancellation of a minor's driving privileges under section 39-06-01.1 as the sole reason to cancel, deny, or not renew the automobile insurance policy of the minor or a parent of the minor unless the points or offenses on the minor's public driving record, separate from a cancellation under section 39-06-01.1, would be a reason to cancel, deny, or not renew the policy."

Page 2, after line 19, insert:

"SECTION 5. AMENDMENT. Section 39-06-35 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-06-35. Period of suspension. When the period of suspension imposed under this title ceases, the operator's license or driving privilege that has been suspended may not be returned or reinstated, and remains under suspension, until the operator pays to the director a reinstatement fee of fifty dollars, or twenty-five dollars if the suspension was the result of a suspension under subsection 4, 5, or 7 of section 39-06-03 or subsection 2 of section 39-06-32, or one hundred dollars if the suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if applicable, until compliance with subsection 3.1 of section 39-06.1-10. Upon payment of the reinstatement fee the license must be returned to the operator. A reinstatement fee is not required for a license to be returned to the operator if the return of the license is due to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter 39-06, 39-06.1, or 39-20."

Page 4, after line 24, insert:

"SECTION 11. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Engrossed HB 1189 was placed on the Seventh order of business on the calendar.

2001 TESTIMONY

HB 1189

HOUSE TRANSPORTATION COMMITTEE

January 19, 2001

North Dakota Department of Transportation
Kelth Magnusson, Director, Office of Driver and Vehicle Services

HB 1189

The North Dakota Department of Transportation prefiled HB 1189 as an agency bill. This bill cleans up and clarifies a number of driver's license issues.

SECTION 1 allows the department to develop procedures for receiving notification of address changes by telephone or electronic means. Right now, we may receive address changes only in writing, in person, or based on postal service information. Many drivers do not inform us of address changes and we want to make it easier for them to do so. Because of some problems in the past, we will develop procedures to provide assurance that address changes are legitimate.

SECTION 2 concerns suspending a driver for failure to appear in court or post bond, and conforms the law to recent changes to the Uniform Traffic Complaint and Summons. Previously, the requirement for the driver to sign the complaint and summons was deleted in many situations, but the law authorizing suspension for failure to appear or post bond was not changed at the same time. This allowed drivers to not comply with the law and still not be suspended for failure to comply. Suspension is often the only way we can get people to pay their traffic fees and fines. Section 4 also concerns this topic.

SECTION 3 allows the department to authorize a driver to request a hearing using other means than the normal first class mailing. As reliability is assured, such as through new laws and procedures on digital signatures, these other ways of doing business could be authorized. Section 8 does the same thing for another type of hearing.

SECTION 4 is tied to Section 2 and requires signing a promise to appear in court only if the signing is actually required by law. If it is not required by law, a signature would not be needed in order to charge someone with failure to appear. This is an offense and separate from Section 2, which authorizes suspension upon receiving a court certificate of noncompliance.

SECTION 5 is a follow-up and clarification to the minor driver's license special provisions passed in the last session. This amendment makes it clear that if the driver's license has been canceled for excess points under those special provisions, and then the driver takes a driver training course, a three-point reduction will be applied only after the period of cancellation. This is now specified for suspensions, but cancellations are not mentioned.

SECTION 6 deletes reference to proof of financial responsibility for administrative suspensions. This requirement was repealed several years ago and the reference was missed. Proof of financial responsibility will still remain for DUI convictions but has not been required for the administrative suspension under the implied consent law for several years.

SECTION 7 allows for personal service of the report and notice form (DUI administrative process) on a nonresident. The current law provides only for mailing, even if the recipient is in

North Dakota. This doesn't make much sense and should be corrected; personal service should always be allowed and is preferable to mailing. This change is the result of an actual case

SECTION 8 is tied to Section 3 and authorizes the department to accept hearing requests by other means, contingent upon developing appropriate security. The other change in this section deletes a reference to hearing dates beyond 30 days and extending a temporary operator's permit. This is no longer needed after amendments last session and should have been taken out at that time to eliminate confusion, but was retained in the event that a court sent a case back for a rehearing. We have determined that we do not need this provision.

Bruce D. Murry
Attorney at Law
6100 Magnolia Dr.
Bismarck, ND 58503
tel (701) 250-6357 fax (701) 224-9371
email: bmurry@tlc.blsmn.com

March 9, 2001

RE: Testimony Before the Senate Transportation Committee

Dear Chairman Stenehjem and Members of the Senate Transportation Committee:

I represent Calvin Buechler in his efforts to restore his driving privileges so that he may obtain gainful employment. Mr. Buechler is a master plumber who has been offered three different good jobs, all of which are dependent upon current driving privileges. Mr. Buechler no longer drinks alcohol and has come to see the benefits of abstinence in his life and work.

North Dakota Century Code Section 39-20-04 provides that a person who refuses testing under the implied consent laws may remedy that refusal by pleading guilty to Driving Under the Influence and completing several procedural requirements. One of the procedural requirements is that the person file an affidavit with the Department within twenty five days. In the affidavit, the person must promise to plead guilty within twenty-five days, agree that driving privileges must be suspended, waive the right to administrative hearing, and agree that a revocation for a longer period must occur if the person does not plead guilty or withdraws that plea.

The Department of Transportation is not fully comfortable that actually pleading guilty within 25 days should satisfy the requirement for an affidavit promising to plead guilty.

However, an actual guilty plea, given before a judge after being warned of the person's rights and the consequences, can better protect public safety than a mere affidavit. The goal of the existing statute would therefore be better served by explicitly allowing the use of a guilty plea rather than an affidavit. Further, a person who has completed the substantive requirements of the current law within the time required by current law would receive the protection intended by the law. The affidavit would remain available for those who cannot get a court date within twenty-five days, and after the guilty plea

Therefore, I respectfully suggest the attached amendment to Subsection 2 of North Dakota Century Code Section 39-20-04. I also suggest that this amendment be made to apply to persons currently revoked who pled guilty within 25 days of their arrest or issuance of the Report and Notice.

Thank you kindly for your consideration.

Sincerely,


Bruce D. Murry

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1189

Subsection 2 of North Dakota Century Code Section 39-20-04 is amended as follows:

2. A person's driving privileges are not subject to revocation under this section if all of the following criteria are met:
- a. No administrative hearing is held under section 39-20-05;
 - b. The person unconditionally pleads guilty or mails an affidavit to the director within twenty-five days after the temporary operator's permit is issued. The affidavit must state that the person:
 - (1) Intends to voluntarily plead guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
 - (2) Agrees that the person's driving privileges must be suspended as provided under section 39-06.1-10;
 - (3) Acknowledges the right to a section 39-20-05 administrative hearing and section 39-20-06 judicial review and voluntarily and knowingly waives these rights; and
 - (4) Agrees that the person's driving privileges must be revoked as provided under this section without an administrative hearing or judicial review, if the person does not plead guilty within twenty-five days after the temporary operator's permit is issued, or the court does not accept the guilty plea, or the guilty plea is withdrawn;
 - c. The person pleads guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
 - d. The court accepts the person's guilty plea and a notice of that fact is mailed to the director within twenty-five days after the temporary operator's permit is issued; and
 - e. A copy of the final order or judgment of conviction evidencing the acceptance of the person's guilty plea is received by the director prior to the return or reinstatement of the person's driving privileges.

SENATE TRANSPORTATION COMMITTEE

March 9, 2001

**North Dakota Department of Transportation
Kelth Magnusson, Director, Office of Driver and Vehicle Services**

HB 1189

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