

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1136

2005 HOUSE TRANSPORTATION

HB 1136

2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. 1136

House Transportation Committee

Conference Committee

Hearing Date January 14, 2005

Tape Number	Side A	Side B	Meter #
1	X		.9-14.4

Committee Clerk Signature

Minutes:

Chairman Weisz opened the hearing on HB 1136 A Bill for an Act to amend and reenact sections 39-06-08, 39-06-37, and 39-06.1-14 of the North Dakota Century Code, relating to an application of a minor for an instruction permit or operator's license and failure to surrender a suspended license.

Syndi Worrel, (4.6) Chief Examiner for the Drivers License and Traffic Safety with DOT :

(Read enclosed testimony for Keith Magnusson)

Chairman Weisz (7.6) Looking at Section 3 wouldn't you also take out the language where you have the suspension revocation and cancellation? Is there a reason to leave that language in there? For example on line 8 and 14 on page 2 of the bill. Because we are not suspending it anymore.

Lynn Heinert: (8.3) In sections 3 and 4 we want to eliminate suspension of the drivers license for the drivers who have their driving privileges suspended. They would still be required to

surrender the license for revocation for cancellation. That section would stay because it is for surrender and return.

Rep. Dosch (8.7) If my license is suspended I am no longer required turn it in? Wouldn't we be better of saying whether or not the license is turned in (the 28 days) would start at suspension whether or not the license has been turned in, but still require the license be turned in?

Otherwise, I get to keep my license.

Lynn Heinert: A couple reasons we would like to do away with having the driver physically surrender his license to DOT, first is because we have a file cabinet full of surrendered licenses and it is hard to keep track of. The second reason is identification. It is just making it easier for individuals whose licenses are suspended to have identification with them.

Rep. Bernstein (10.0) Testimony in Section 2 why would we change why to shall; why don't we change shall to may?

Lynn Heinert: We have shall, but we don't mind using may in both sections. Our concern on the performance audit was the consistency between the two sections.

Rep. Ruby (10.5) How much does it cost to get a non driver ID Card? What number is assigned to the card?

Lynn Heinert: It costs \$8. The number assigned would be the same format as the drivers license. The number that ND is using is an alpha numeric and that number would show both on your license and ID card. It is tied to the same record.

Syndi Worrel: (11.8) Buy having two different numbers is could develop into two separate records. Nationwide they want to maintain one driver record and that ID card is actually setting up a driver record so either could be lost and then reissued.

Rep. Ruby Why would the ID card be tied to the drivers license?

Syndi Worrel: People that don't have a drivers license sometimes do go out and drive anyway.

Rep. Weiler Two questions, who often are they done and what is the expense and who's expense is it? Guess that is three questions.

Syndi Worrel: (12.9) The performance audit we had was conducted by the state auditors office in 2003 at the request of the legislative audit and fiscal review committee under ND Century Code authority. Our department has periodic internal audits, but this was different and I don't know how often we have had them. We have never had an actual state audit like this before.

Lynn Heinert: We have had two audits done. The first performance audit was of all our informational technology programs and processes in 2001. From that audit I believe it was recommended to do a performance audit on both motor vehicle and drivers license division.

Rep. Weiler State auditors office expense?

Syndi Worrel: I believe that expense would be out of the State Auditor's office.

Chairman Weisz No further questions in support or opposition

Closed (14.4)

Discussion:

Rep. Bernstein (15.2) How many times do we have to change may to shall and shall to may?

Rep. Kelsch That formal audit was requested because of the change over in some of the technology that was being used in the drivers license division. It was costly and slowed things down and we asked for the audit done on both the drivers licenses and the licensing division.

Legislative Audit and Fiscal Review is the committee the reviews all the audits that are done by

the state auditors office and we review each one of those audits. Explained reasons for audits.

Sometimes legislation comes out of doing a performance audit. If your interested we have a meeting scheduled for January 27th.

Rep. Thorpe (17.2) Wants more information from highway patrol.

Chairman Weisz They were here and made no testimony and it won't affect because they call in and check the validity of a drivers license regardless. If it is suspended it isn't going to matter if you have one in your possession.

Rep. Thorpe (18.3) If they want to pull the license because of some infraction. I think it has more impact on the individual sited. Would not vote without and ID.

Rep. Hawken I truly think they are just trying to make life easier.

Motion Made by Rep. Iverson Seconded By Rep. Berstein

Do Pass 14 Yes 0 No 1 Absent Carrier Rep. Hawken

Date: 1-14-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1136

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass*

Motion Made By *Rep Iverson* Seconded By *Rep Bernstein*

Representatives	Yes	No	Representatives	Yes	No
Rep. Weisz - Chairman	✓		Rep. Delmore	ADS	
Rep. Hawken - Vice Chair.	✓		Rep. Meyer	✓	
Rep. Bernstein	✓		Rep. Schmidt	✓	
Rep. Dosch	✓		Rep. Thorpe	✓	
Rep. Iverson	✓				
Rep. Kelsch	✓				
Rep. Owens	✓				
Rep. Price	✓				
Rep. Ruby	✓				
Rep. Vigesaa	✓				
Rep. Weiler	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment *Rep Dawkins*

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

REPORT OF STANDING COMMITTEE (410)
January 14, 2005 12:42 p.m.

Module No: HR-09-0489
Carrier: Hawken
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1136: Transportation Committee (Rep. Weisz, Chairman) recommends DO PASS
(14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1136 was placed on the
Eleventh order on the calendar.

2005 SENATE TRANSPORTATION

HB 1136

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1136

Senate Transportation Committee

Conference Committee

Hearing Date 3-04-05

Tape Number	Side A	Side B	Meter #
1		x	0-1100

Committee Clerk Signature

Mary K Monson

Minutes:

Chairman Trenbeath opened the hearing on HB 1136 relating to an application of a minor for an instruction permit or operator's license and failure to surrender a suspended license.

Keith Magnusson (Deputy Director, Driver and Vehicle Services, ND DOT) See attached testimony in support of HB 1136 and attached amendments.

Senator Mutch asked what the 7, 9, and 11 was in Section 6 of the amendments.

Keith Magnusson said the 7, 9, and 11 are offenses in noncommercial vehicles. (Meter 600)

Senator Nething asked if Mr. Magnusson could provide testimony relating to Section 5 which seemed to be pretty pertinent. He wanted him to amend his testimony to include some testimony on Section 5.

Keith Magnusson said he could do that.

Senator Warner said he would feel more comfortable having some additional language on Section 6, too.

Senator Trenbeath asked Mr. Magnusson to also provide the portions of the audit that addressed those sanctions if they resulted from the CDL audit.

Senator Mutch asked for information on the threat of losing any federal funds.

Mr. Magnusson agreed to provide further information for the committee.

Senator Warner asked what possible basis they have to believe this is an accidental misdraft and that the original committee did not intend that the parent had to sign for both the permit and the license.

Mr. Magnusson said that happened long before any of us were here. It had been the practice that, if they signed on the permit, they didn't have to sign when they came in for the actual driving test.

Senator Trenbeath asked if it would still be that either the instruction permit or the operator's license needs to be verified by the parents.

Mr. Magnusson said it was really meant to say the initial one of those two, the instruction permit or an operator's license.

Senator Trenbeath said it would read clearer to him if it read, "the application of any minor for an initial instruction permit or initial operator's license". He asked if that is what they intended to say.

Mr. Magnusson said that is what they intended to say. In the normal situation, instruction permit is the first one.

Senator Bercier asked if he was interpreting this right that a young person could find an older friend to come in the absence of a parent or legal guardian.

Page 3

Senate Transportation Committee

Bill/Resolution Number HB 1136

Hearing Date 3-04-05

Mr. Magnusson said they would have the parent or guardian on the initial one and they can revoke that at any time. This is after they have taken their permit test and come in later to take the actual driving test

The hearing on HB 1136 was closed.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1136

Senate Transportation Committee

Conference Committee

Hearing Date 3-11-05

Tape Number	Side A	Side B	Meter #
1	x		1270-1530

Committee Clerk Signature

Mary K Monson

Minutes:

Chairman Trenbeath opened HB 1136 for discussion and action.

There was a short discussion clarifying that the proposed amendment was presented by Keith Magnusson. Chairman Trenbeath reported to the committee that the additional testimony they had requested from Keith Magnusson was in their binders.

Senator Warner moved to accept the amendments submitted by Keith Magnusson.

Seconded by **Senator Bercier**. Roll call vote 5-0-1. **Amendments accepted.**

Senator Espegard motioned a **Do Pass as Amended**. Seconded by **Senator Warner**.

As per Chairman Trenbeath the vote was held open for Senator Mutch.

Final roll call vote 6-0-0. **Passed**. Floor carrier is **Senator Espegard**.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1136

Page 1, line 1, remove the second "and" and after "39-06.1-14" insert
", subsection 19 of section 39-06.2-02, and subsection 2 of
section 39-06.2-10"

Page 1, line 3, after the first "license" insert a comma, remove "and", and after
the second "license" insert ", definition of hazardous material, and
disqualification of commercial driving privileges"

Page 2, after line 27, insert:

"SECTION 5. Subsection 19 of section 39-06.2-02 of the North
Dakota Century Code is amended and reenacted as follows:

19. "Hazardous materials" has the meaning as that found in section
103 of the Hazardous Materials Transportation Act [49 App. U.S.C.
1801 et seq.] means any material that has been designated as
hazardous under 49 U.S.C. 5103 and is required to be placarded
under subpart F of 49 CFR part 172 or any quantity of a material
listed as a select agent or toxin in 42 CFR part 73.

"SECTION 6. Subsection 2 of section 39-06.2-10 of the North
Dakota Code is amended and reenacted as follows:

2. A person is disqualified for life if convicted of two or more violations
of any of the offenses specified in subsection 1, 7, 9, or 11, or any
combination of those offenses, arising from two or more separate
incidents. Only offenses committed after July 1, 1989, may be
considered in applying this subsection.

Renumber accordingly

JWN
3/11/05

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1136

Page 1, line 1, remove the second "and" and after "39-06.1-14" insert ", subsection 19 of section 39-06.2-02, and subsection 2 of section 39-06.2-10"

Page 1, line 3, replace "and" with a comma and after the second "license" insert ", definition of hazardous material, and disqualification of commercial driving privileges"

Page 2, after line 27, insert:

"SECTION 5. AMENDMENT. Subsection 19 of section 39-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

19. "Hazardous materials" has the meaning as that found in section 103 of the Hazardous Materials Transportation Act [49 App. U.S.C. 1801 et seq.] means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.

SECTION 6. AMENDMENT. Subsection 2 of section 39-06.2-10 of the North Dakota Century Code is amended and reenacted as follows:

2. A person is disqualified for life if convicted of two or more violations of any of the offenses specified in subsection 1, 7, 9, or 11, or any combination of those offenses, arising from two or more separate incidents. Only offenses committed after July 1, 1989, may be considered in applying this subsection."

Renumber accordingly

Date: 3-11-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO 1136

Senate

TRANSPORTATION

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Amendment by Keith Magnusson*

Motion Made By *Sen. Warner* Seconded By *Sen. Bercier*

Senators	Yes	No	Senators	Yes	No
Senator Espegard	✓		Senator Bercier	✓	
Senator Mutch			Senator Warner	✓	
Senator Nething	✓				
Senator Trenbeath, Chairman	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment

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

Date: 3-11-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO 1136

Senate

TRANSPORTATION

Committee

Check here for Conference Committee

Legislative Council Amendment Number 58138.0101 Title .0200

Action Taken Do Pass as Amended

Motion Made By Sen. Espegard Seconded By Sen. Warner

Senators	Yes	No	Senators	Yes	No
Senator Espegard	✓		Senator Bercier	✓	
Senator Mutch	✓		Senator Warner	✓	
Senator Nething	✓				
Senator Trenbeath, Chairman	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Espegard

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

REPORT OF STANDING COMMITTEE

HB 1136: Transportation Committee (Sen. Trenbeath, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1136 was placed on the Sixth order on the calendar.

Page 1, line 1, remove the second "and" and after "39-06.1-14" insert ", subsection 19 of section 39-06.2-02, and subsection 2 of section 39-06.2-10"

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Renumber accordingly

2005 TESTIMONY

HB 1136

HOUSE TRANSPORTATION COMMITTEE
January 14, 2005

North Dakota Department of Transportation
Keith C. Magnusson, Deputy Director for Driver and Vehicle Services


HB 1136

The North Dakota Department of Transportation filed HB 1136 as an agency bill. This bill addresses recommendations made by a performance audit of Driver and Vehicle Services.

Section 1 clarifies that a parent or guardian for an underage driver needs to sign an application for only the initial instruction permit or operator's license. The performance audit pointed out that the current wording appears to require the parent's signature for both the permit and operator's license, which is contrary to our current practice. We have clarified our application forms but believe the statute should be changed.

Section 2 clears up a discrepancy in language between Sections 39-06-03.1(8) and 39-06-24, both dealing with authority to cancel licenses and ID cards. The first section, dealing with the nondriver photo ID card, says the department "shall" cancel the card when we determine that the holder is not entitled to the card. The second section, which deals with authority to cancel any license, permit, or nonphoto ID card, says that the department "may" cancel upon determining that the person is not entitled to the document. We believe these two sections should use the same language -- the word "shall."

Section 3 removes the requirement for a driver to surrender a suspended license. (The surrender requirement would stay in place for licenses that have been cancelled or revoked, because the drivers will no longer have any underlying driving privileges and will have to start over at the appropriate time.) This issue makes many drivers irate. If they do not surrender their license after receiving a suspension notice, it is often because they have physically lost their license or don't understand the instructions on the order, yet their suspension period is extended for every day they do not turn in their license. For example, drivers with a 28-day suspension may expect their driving privileges to be restored at the end of that time; when they check with us, they find out that their suspension period has not even officially begun because we have not received their license. What should have been a 28-day suspension often lasts much longer than that.

Law enforcement does have real-time ability to check the status of the driver's license and should do so in all cases. Just because the driver has a license in possession does not mean that it is valid.

Section 4 is tied to section 3, deleting the requirement to surrender a suspended license.

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SENATE TRANSPORTATION COMMITTEE

March 4, 2005

**North Dakota Department of Transportation
Keith C. Magnusson, Deputy Director for Driver and Vehicle Services**

HB 1136

The North Dakota Department of Transportation filed HB 1136 as an agency bill. This bill addresses recommendations made by a performance audit of Driver and Vehicle Services.

Section 1 clarifies that a parent or guardian for an underage driver needs to sign an application for only the initial instruction permit or operator's license. The performance audit pointed out that the current wording appears to require the parent's signature for both the permit and operator's license, which is contrary to our current practice. We have clarified our application forms but believe the statute should be changed.

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Law enforcement does have real-time ability to check the status of the driver's license and should do so in all cases. Just because the driver has a license in possession does not mean that it is valid.

Section 4 is tied to section 3, deleting the requirement to surrender a suspended license.

After HB 1136 was originally drafted, the department received the results of a commercial driver's license (CDL) audit that was conducted earlier last fall. By the time the legal portions of the audit results were clarified, compromised, and finalized, it was too late to address any of these issues and findings in the House Transportation Committee. Most of the items are able to be dealt with operationally, by rules, or can be deferred until next session. But, there are two

items that we are asking to address at this time. One of those is an update of our definition of hazardous material to comply with a revised federal definition. The other is a clarification to the Motor Carrier Safety Improvement Act amendments that you passed last session. This would make it clear that any combination of the listed serious offenses, rather than just two of the same offense would result in a lifetime disqualification. This particular audit finding we need to address by September 30, 2005, or be subject to significant highway funding penalties, as well as possible implications for certification of the entire CDL system. A number of the audit findings were because of confusion in trying to take the tables from the rules promulgated by the Federal Motor Carrier Safety Administration and transfer that to text for the North Dakota Century Code. We are offering amendments to cover both of these issues.

ADDENDUM

At the hearing on March 4, the Senate Transportation Committee requested further information on the proposed amendments, as described above. The first proposed amendment concerns the definition of hazardous material. There was a finding in the CDL audit that specifically stated that "North Dakota's definition of hazardous material is too narrow to allow North Dakota to impose the disqualifications required by 49 CFR Section 383.51." The finding goes on to say, "this definition is less inclusive than the definition found in 49 CFR Section 383.5 which now defines hazardous materials as...." The finding then goes on to state the definition that we have put in the proposed amendment. The proposal is word for word from the definitions for commercial driver's license standards found in 49 CFR 383.5. The federal definition, and thus required for North Dakota CDL purposes, has changed and been made more specific since North Dakota's definition was adopted, presumably in 1989 as part of the Uniform Commercial Driver's License Act. I have provided copies of the finding and the particular regulation on the definition to the chair.

The other matter concerns a clarification to our law on disqualifications for major violations. This was also a finding from this CDL audit. It specifies that the major violations found in our CDL law must be amended to include violations committed in any type of vehicle, not just commercial motor vehicles. They go on to say, "North Dakota has passed amendatory legislation apparently intended to accomplish this. However, the various provisions merely impose lifetime disqualifications for a second conviction of each of the major violations in a non-CMV. As worded, a conviction of a DUI in a non-CMV and a conviction of leaving the scene of an accident involving a CMV would not result in a lifetime disqualification as required by 49 CFR Section 383.51." The original disqualifications for major violations, passed in 1989, were only for offenses in a commercial motor vehicle. Subsequently, Congress passed the Motor Carrier Safety Improvement Act of 1999, requiring that, in addition, there be disqualifications for major violations in a noncommercial motor vehicle. We accomplished this during the 2003 session, but failed to include a reference to a combination of those major violations as being cause for a lifetime disqualification. We do have the correct language on two of one type of violation, such as a DUI, requiring a lifetime disqualification. But, apparently in translating from the tables in the regulations to text, we omitted the reference to a combination of any two of those major violations. The second amendment is to cover that. I am also including copies of this particular finding in the CDL audit and the particular table from the regulations for the chair.