

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1036

2007 HOUSE TRANSPORTATION

HB 1036

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1036

House Transportation Committee

☐ Check here for Conference Committee

Hearing Date: 01-05-07

Recorder Job Number: 669

Committee Clerk Signature

Lisa Thomas

Minutes: Chairman Weisz opened the hearing on HB 1036. HB 1036 is a bill relating to fees and points for driving without liability insurance. Rep. Delmore was absent. All other Representatives were present.

Tim Dawson from Legislative Council introduced the bill. He stated that he is present to explain the bill, but not for nor against the bill.

Tim: Section 1 on HB 1036 provides that insurance companies would have to provide proof of insurance that you put in your glove box, to you. That requirement is not in law now although, most if not all, do that. Section 2 changes the whole procedure from a criminal procedure to an administrative procedure for driving without liability insurance. HB 1037, which will come up later, keeps it a criminal procedure and merely gets rid of the law enforcement, issues a warning ticket and if you don't contact them and say that you do have liability insurance then they have to file a long form complaint with the state's attorney, go and hunt you down, and issue the citation that way. This was to get rid of that procedure. So in section 2, this moves the points from criminal to non criminal. It's basically a change in the placement in the code it really doesn't have a substantive affect. There is a list of points for criminal and non criminal violation and this moves it from the criminal side to the non criminal side. Section 3 because the change in the law is from criminal to non criminal, there is no reason to have an arrest, so

we removed that line 17 relating to arrest. Section 4 deals with the fee that will happen and since it was a minimum fine before, now it will be a fee and that will be equal to the minimum previous fine on \$150 for the first violation and \$300 for the second violation in 18 months. Section 5, that is where we start switching those points between criminal and non criminal. Section 6 is the same. Section 7 relates to some cleanup of the law being changed to comport with the way that it is done in the department of transportation. Those previous cross references had not been changed over time, and did not make sense. So we cleaned up the language as long as we were in that section. Section 8, again removing the driving without liability insurance in a section in which it used to relate to criminal offenses and arrest, and since that procedure isn't used anymore, we removed that out of that. And in the meat of the bill is in section 9, which relates to the driving without liability insurance. The first subsection deals with not driving without liability insurance and then the second subsection deals with having that proof of insurance that we talked about and under the old procedure a law enforcement officer would give you the warning; you would then have twenty days to prove your insurance to the law enforcement officer. If the officer didn't receive that proof, then to charge you with the violation of that, they would have to go through the long form complaint. This gets rid of that procedure and the law enforcement officer will now issue you a citation. If you do have insurance, you have to prove it to the court. And on page nine, there are provisions relating to the impoundment of number plates for second or subsequent violations of 390820, relating to driving without liability insurance. Your plates will be impounded if after that second violation you do not get the high risk insurance and there are procedures for that already in place and so this ties into those procedures.

Chairman Weisz: I have a question on subsection 9, where it says person shall deliver the plates to both motor vehicles owned and operated, what is the definition, if they are working for their employer and is operating these vehicles, is that defined clearly?

Dawson: I think those words are meant there to be used so both of those have to be satisfied, the person would have to own the vehicle and operate the vehicle at the time of the violation to lose the plates. That way it wouldn't be over broad in affect that situation that someone would be driving somebody else's vehicle.

Rep. Ruby: You mentioned that if they didn't provide high risk insurance, that the plates would be impounded. Do you know if maybe an employer or somebody that would have somebody driving a company pickup, would have to have high risk insurance?

Dawson: I don't know enough to answer that question.

Rep. Ruby: This is under the conditions that somebody's license was suspended under a multiple of reasons, or is this a DUI or suspended due to lack of insurance?

Dawson: This only relates to driving without liability insurance, so on your second offense for driving without liability insurance there is a procedure in code now where you have to electronically provide insurance to the department of transportation that you have it and that it's for a period of time, I think a year. Once you provide that, you can drive. This ties into that.

Rep. Ruby: So after the first violation, there is a requirement in law that for not having liability insurance, you have to have high risk insurance?

Dawson: The law is as written on page nine, line three through ten, it says for a violation of this section, you have to provide proof of motor vehicle insurance to the department in form of written or electronically transmitted certificate of insurance that a carrier is authorized to do business in this state and to my understanding that generally is very expensive insurance.

Rep. Dosch: Could you tell some of the reasoning behind why you want to move it from criminal to non criminal?

Dawson: That move started from the initial proposition that they wanted to get rid of this twenty day procedure. And one way to get rid of it was to make it administrative. That bill draft came first. After the committee looked at it, they narrowed it even more, where they kept it criminal, didn't switch it to administrative, and just got rid of that particular offending piece of law.

Chairman Weisz: Tim, I think I will have you explain HB 1037 before we take opposition on 1036.

Dawson: HB 1037 keeps the criminal procedure so it gets rid of all of those other provisions and does contain the provision that insurance companies must issue a proof of insurance to people. That isn't in law, even though it is done universally. Then the bill, as you can see removes all language about when you get pulled over, having twenty days to provide that proof of insurance to the law enforcement and just changes that to you can't suffer any consequences if you show up for court that you prove to the judge that you had proof of insurance at that time. And again, there is the impoundment at the end and that is the exact same language as is in HB 1036.

Kent Olson, Executive director of the Professional Insurance Agents Assoc., spoke in support of the bill.

Kent: We support the bill; there are some things that don't involve us. I did do two handouts; the first one is a clarification. See attached information. Removing the criminal side of it and this section triggers, and this is where our concern is. The mandatory penalty is a concern. If you approve the bill with the non criminalization, then this triggers because it says, "the official may at the time, wave, reduce or suspend the statutory bond or fee or both, so it is

contradictory of the current. So the second item I sent out is a proposed amendment that we would like to see. (See attached). We would like to add in on line 24 in section 3, we are adding in that we are going to accept out the penalty for driving without insurance which is 39061-6. What we are doing is requesting that we accept out of the non criminal, the ability to wave, suspend or reduce.

Chairman Weisz: Any other support for HB 1036?

Lieutenant Kelly Rogers, North Dakota Highway Patrol, spoke in support of the bill.

Rogers: A couple of things that came up as a result of the draft in visiting with Kurt Schmidt from the supreme court staff, the court staff across the state has some concern with the provision of if a person does have insurance, providing proof of that insurance to the court. In visiting with him and law enforcement, we think that it is reasonable compromise that the person provide that proof to the law enforcement agency that issued the citation rather than the court. Law enforcement agencies generally recognize the insurance documents on a daily basis and are probably in a better position to recognize those documents. That is the only provision that we see.

There were no questions from the committee for Rogers.

Chairman Weisz opened the hearing for opposition at this time.

Lynn Heinert, Dept. of Transportation, spoke in opposition to the bill. See attached testimony.

Chairman Weisz: Under the proposed bill here, if you had a violation in 1976 and then you have one in 2007, is that still two violations and the plates have to be pulled, right?

Lynn: In theory that is correct, but we only keep violations on the driving record for three years.

Rep. Ruby: You already pull the plates with DUI, so you are already dealing with that area, correct?

Lynn: We don't have the authority to pull the plates that authority is given to the court system.

Rep. Ruby: But they are pulled for that reason, it's not taking the vehicle, it's the plates that are withheld for a period of time?

Lynn: Correct.

Rep. Schmidt: Did you get a chance to take this to the interim committee?

Lynn: I personally did not, Keith Magnusson appeared, and today he is in the Senate Trans.

Chairman Weisz: Seeing no further opposition, we will close the hearing.

No Action was taken at this time.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1036

House Transportation Committee

☐ Check here for Conference Committee

Hearing Date: 01-05-2007

Recorder Job Number: 670

Committee Clerk Signature

Lisa M Thomas

Minutes:

Chairman Weisz asked the committee if there was any discussion regarding HB 1036. HB 1036 relates to proof of insurance and fees and point demerits for driving without liability insurance.

There was no discussion from the committee.

Rep. Vigesaa moved a DO NOT PASS.

Rep. Price seconded the motion.

Roll Call Vote: 12 yes 0 no 1 absent

Carrier: Rep. Dosch

FISCAL NOTE
Requested by Legislative Council
12/26/2006

Bill/Resolution No.: HB 1036

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$146,000		\$137,000
Appropriations				\$146,000		\$137,000

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill de-criminalizes the violation for driving without liability insurance and provides for the impoundment of license plates for a second or subsequent conviction

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Based on an estimated 860 occurrences per biennium, this bill would result in an additional \$131,000 of staffing, storage, and shipping costs the first biennium and an estimated \$137,000 the second biennium. In addition, during the first biennium we would incur one time computer programming charges of approximately \$15,000.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

It is estimated this bill would result in additional costs to the DOT of \$146,000 the first biennium and \$137,000 the second biennium.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The DOT would require an addition to its appropriation in the amount of \$146,000 for the 2007-2009 biennium.

Name:	Marsha Lembke	Agency:	NDDOT
Phone Number:	328-4865	Date Prepared:	01/03/2007

Date: 1-5-06
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1036

House Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS

Motion Made By REP VIGESAA Seconded By REP PRICE

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	<input checked="" type="checkbox"/>		Rep. Delmore		
Vice Chairman Ruby	<input checked="" type="checkbox"/>		Rep. Gruchalla	<input checked="" type="checkbox"/>	
Rep. Dosch	<input checked="" type="checkbox"/>		Rep. Myxter	<input checked="" type="checkbox"/>	
Rep. Kelsch	<input checked="" type="checkbox"/>		Rep. Schmidt	<input checked="" type="checkbox"/>	
Rep. Owens	<input checked="" type="checkbox"/>		Rep. Thorpe	<input checked="" type="checkbox"/>	
Rep. Price	<input checked="" type="checkbox"/>				
Rep. Sukut	<input checked="" type="checkbox"/>				
Rep. Vigesaa	<input checked="" type="checkbox"/>				

Total Yes 12 No 0

Absent 1

Floor Assignment REP DOSCH

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

REPORT OF STANDING COMMITTEE (410)
January 5, 2007 2:08 p.m.

Module No: HR-03-0270
Carrier: Dosch
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1036: Transportation Committee (Rep. Welsz, Chairman) recommends DO NOT PASS
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1036 was placed on the
Eleventh order on the calendar.

2007 TESTIMONY

HB 1036

HOUSE TRANSPORTATION COMMITTEE

January 5, 2007

North Dakota Department of Transportation
Lynn Heinert, Traffic Records Manager, Office of Traffic Safety

HB 1036

The North Dakota Department of Transportation is opposed to this bill. We have worked with the legislature, for at least the last 10 years, to strengthen the statutes regarding driving without liability insurance. Driving without liability insurance is a serious enough violation to warrant remaining a criminal traffic offense. To make driving without liability insurance a non-criminal traffic offense would weaken the law, and possibly result in more drivers not having liability insurance.

SECTION 1, 2 and 3: The department agrees with the amendments in these sections.

SECTION 4: The department opposes this section. Currently the way the section is worded, it would eliminate the minimum mandatory fines for driving without liability insurance that are currently in NDCC 39-08-20.

SECTION 5 and 6: The department is also opposed to the amendments in these sections. These sections would make a violation of NDCC 39-08-20 non-criminal traffic offenses, and as stated before we believe that driving without liability insurance should remain a criminal traffic offense.

SECTION 7 and 8: The department agrees with the amendments in these sections.

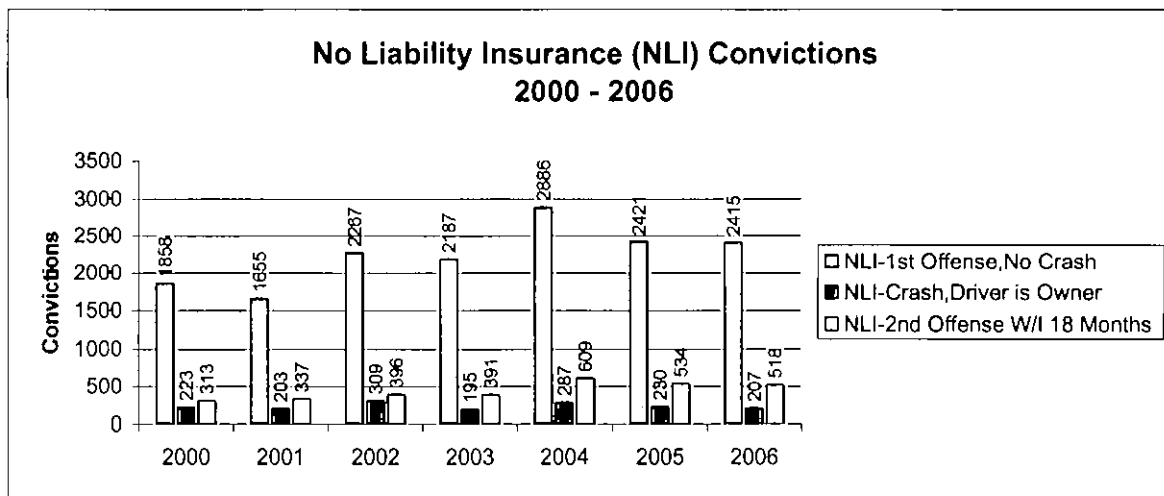
SECTION 9: The department agrees with paragraph 2 of this section. This amendment would give law enforcement the ability to issue a traffic citation immediately if the driver is unable to show proof of liability insurance. Currently, a driver has 20 days to provide proof of liability insurance to an officer, before the officer can issue a citation. This amendment would simplify the process for the officer.

Paragraph 3 gives the driver 14 days to provide proof of liability insurance to the hearing official (court), and if such proof is provided, the driver may not be found to have committed the violation. Unfortunately, the amendments to paragraph 3 also remove the minimum mandatory fines which, as previously stated, the department opposes.

The department opposes the amendment in paragraph 4 that would require the impoundment of motor vehicle number plates of all the motor vehicles owned and operated by the person for a second or subsequent violation. Currently an individual is not required to register a motor vehicle in their legal name. Because of this practice, determining which vehicle plates the offender is required to surrender would be very time consuming and difficult to administer.

Because of the aforementioned reasons the Department of Transportation is opposed to HB 1036.

No Liability Insurance Convictions							
	2000	2001	2002	2003	2004	2005	2006
No Liability Ins, 1st Offense, No Crash (6 Points)	1858	1655	2267	2187	2886	2421	2415
No Liability Ins, 1st Offense, Crash, Driver is Owner (14 Points)	223	203	309	195	287	230	207
No Liability Ins, 2nd Offense Within 18 Months (12 Points)	313	337	396	391	609	534	518
TOTAL	2394	2195	2972	2773	3782	3185	3140



**CHAPTER 39-06.1
DISPOSITION OF TRAFFIC OFFENSES**

39-06.1-01. Definitions. As used in this title:

39-06.1-02. Traffic violations noncriminal - Exceptions - Procedures. Any person cited, in accordance with sections 39-07-07 and 39-07-08, for a traffic violation under state law or municipal ordinance, other than an offense listed in section 39-06.1-05, is deemed to be charged with a noncriminal offense. The person may appear before the designated official and pay the statutory fee for the violation charged at or before the time scheduled for a hearing. If the person has posted bond in person or by mail, the person may forfeit bond by not appearing at the designated time. If the person is cited for a traffic violation under state law and posts bond by mail, the bond must be submitted within fourteen days of the date of the citation. When posting bond by mail, the person cited shall indicate on the envelope or citation whether a hearing is requested. If the person does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the violation admitted. If the person requests a hearing, the court for the county in which the citation is issued shall issue a summons to the person requesting the hearing notifying the person of the date of the hearing before the designated official in accordance with section 39-06.1-03. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the person's request, the person may make a statement in explanation of the person's action. The official may at that time waive, reduce, or suspend the statutory fee or bond, or both. If the person cited follows the foregoing procedures, the person is deemed to have admitted the violation and to have waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance must be identical to the statutory fee established by section 39-06.1-06. Within ten days after forfeiture of bond or payment of the statutory fee, the official having jurisdiction over the violation shall certify to the licensing authority:

1. Admission of the violation; and
2. In speeding violations, whether the speed charged was in excess of the lawful speed limit by more than nine miles [14.48 kilometers] per hour and the miles [kilometers] per hour by which the speed limit was exceeded.

This section does not allow a halting officer to receive the statutory fee or bond, unless the officer is otherwise authorized by law to do so.

ⓧ Amendment resolves this conflict.

Kent Olson

PROPOSED AMENDMENT TO HB 1036

Page 1, add the following language:

24 SECTION 3. AMENDMENT. Section 39-06.1-02 of the North Dakota Century Code is
25 amended and reenacted as follows: The official may at the time waive, reduce, or suspend
26 the statutory fee or bond, or both, except for violations of section 39-06.1-06.

Page 2, at Line 26 and after "dollars", insert the following language:

which may not be waived, reduced, or suspended.