

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1359

2007 HOUSE TRANSPORTATION

HB 1359

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1359

House Transportation Committee

Check here for Conference Committee

Hearing Date: 02-01-2007

Recorder Job Number: 2550

Committee Clerk Signature

Lisa M Thomas

Minutes:

Chairman Weisz opened the hearing on HB 1359. All representatives were present.

HB 1359 relates to rear-end protection of trucks.

Rep. Belter introduced the bill. See written testimony.

Rep. Weisz: Do you want to clarify when you say it is difficult, if not impossible, what you mean by that?

Rep. Belter: There are sugar beet dumps as well as potato industry, they need to back up to a facility and something they can unload onto. When you have a bumper on there, you can't get back far enough so that you can dump these trucks, also for the grain truck industry, if you have a bumper on your truck, you are going to need a bumper that when you raise your box, that this bumper won't bottom out on the ground. You would have to have some sort of mechanism to have it collapse or something. There are mechanical problems and it costs two to three thousand dollars per truck to certify.

Rep. Vigesaa: How does South Dakota handle this?

Rep. Belter: I don't know, the construction industry is exempt.

Rep. Ruby: This is about a rear unload truck, does it include a rear end dump truck?

Rep. Belter: I am not sure, it is for ag products only.

Rep. Thorpe: I didn't realize it was a federal law, how does the DOT do it? Don't they have rear end trucks?

Rep. Belter: There is a requirement of inches for the hang over of the box.

Rep. Price: What is the federal regulation definition?

Rep. Belter: I don't know.

Rep. Aarsvold state for the record his support for this bill.

Paul Mathiason, Red River Valley Sugar beet Growers, spoke in support of the bill. See written testimony.

Rep. Owens: What if you drive over state lines, because then the federal law is in effect?

Mathiason: A lot of farmers do, but I do not.

Rep. Thorpe: Do the interstate laws apply to sugar beet and potato farmers over there?

Mathiason: No, we don't travel on interstate if we don't have to.

Dan Wogsland, Executive Director of the North Dakota Grain Growers Association, spoke in support of the bill. See written testimony.

Beau Bateman, Farmer from Grand Forks, spoke in support of the bill.

Bateman: We do transport sugar beets across the Red River into East Grand Forks and for years we have been trying to comply with both MN and ND rules and haven't had to have bumpers, although that has been in writing, it has not been enforced. When ND got restrictive on their waterfowl hunting guidelines, the guys from MN upped the restriction on trucks. Maybe there is some connection. They don't look at our bumpers, but they look at our plates and see that we have ND plates and know that we have to have bumpers, and they don't approve the trucks. When we go across the river, we understand that we are subject to federal laws.

Sandy Clark, North Dakota Farm Bureau, spoke in support of the bill. See written testimony.

Chairman Weisz allowed opposing testimony at this time.

Doyle Schulz, ND Motor Carriers Association, spoke in opposition to the bill. See written testimony.

Rep. Delmore: How many states have the exemption?

Schulz: I'm not sure.

Rep. Weisz: Your bumpers don't address the issue we are discussing.

Rep. Owens: Federal law states that we can exempt for intrastate commerce, certain things.

Schulz: In Jeff Jensen's letter, on the last paragraph, if you read that is also applies to intrastate operations. Obviously, the federal government only has control over intrastate operations, but in fact they did adopt the law and by reference became a state law. If you were to change that, they could use it for sanction purposes.

Rep. Owens: That is not the way I am reading this. There is a point in here where it talks about Grandfathering existing state law but it also says, "a state may exempt".

Schulz: We asked for direct information from D.C. because of that. There interpretation does not agree with that.

Rep. Gruchalla: Has ND ever applied for this before?

Schulz: No.

Rep. Gruchalla: We would lose federal funding for the Motor Carrier Safety?

Schulz: They "could".

Rep. Ruby: Is this just with semis or all trucks?

Schulz: 1952 law states that it is just for straight trucks.

Rep. Schmidt: What about logging trucks in Montana, is the rule different?

Schulz: Pole trailers are exempt.

Tom Baulzer, North Dakota Motor Carriers Association, spoke in opposition to the bill.

Baulzer: When I was driving back from Fargo last night, every trailer I was passing would have caught me right in the nose. Our main concern on the safety side of it is the rear impact and how people would be decapitated. Cars today are designed that when they have an impact, the front end is going to absorb most of that blow and there is going to be hopefully less injuries in that case. The rear end protection was put in place and looked at as one of the greatest passenger safety devised put into place because about twenty-five to twenty-six percent of accidents, with a semi is a rear impact axel.

Neutral testimony:

Keith Magnusson of the DOT, spoke to offer information.

Magnusson: DOT is concerned the highway patrol will lose money from the federal highway fund. They stand to lose ten percent of the funds, which is approximately twenty million per year.

There was no further testimony. The hearing was closed. No action was taken at this time.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1359

House Transportation Committee

Check here for Conference Committee

Hearing Date: 02-08-2007

Recorder Job Number: 3113

Committee Clerk Signature

Lisa M Thomas

Minutes:

Chairman Weisz allowed committee discussion on HB 1359. HB 1359 relates to rear-end protection trucks. Rep. Schmidt was absent.

Rep. Weisz: This is a bill for not requiring rear-end protection for trucks, if it's a farm truck. We have been having conversations with the highway patrol, but there are conversations going on now with the federal highway, I would recommend that we send this bill out, so it can get to the Senate side so there is more time to work on a solution with the federal. It's a long way before this bill becomes law.

Rep. Owens: This is going to take some work with the federal motor carriers and I haven't talked to them yet and South Dakota is in the same boat. We have just gone through the US code and there is no easy way around that. We will follow the code, but it is going to take a little time. We can fix this I believe; it's just a matter of time.

Rep. Vigesaa moved a DO PASS on HB 1359. Rep. Owens seconded.

Roll Call Vote: 9 yes 3 no 1 absent.

Carrier: Rep. Weisz

Date: 2-8-07
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1359

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass.

Motion Made By Vigesaa Seconded by Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. Delmore	✓	
Vice Chairman Ruby	✓		Rep. Gruchalla		✓
Rep. Dosch	✓		Rep. Myxter		✓
Rep. Kelsch	✓		Rep. Schmidt	A	
Rep. Owens	✓		Rep. Thorpe		✓
Rep. Price	✓				
Rep. Sukut	✓				
Rep. Vigesaa	✓				

Total Yes 9 No 3

Absent 1

Floor Assignment Weisz

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

REPORT OF STANDING COMMITTEE (410)
February 8, 2007 11:39 a.m.

Module No: HR-27-2510
Carrier: Welsz
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1359: Transportation Committee (Rep. Welsz, Chairman) recommends DO PASS
(9 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1359 was placed on the
Eleventh order on the calendar.

2007 SENATE TRANSPORTATION

HB 1359

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1359

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: February 23, 2007

Recorder Job Number: 3727

Committee Clerk Signature

Jody Hauge

Minutes:

Senator Lee called the Transportation Committee to order at 9:00 AM. There were five committee members present and one absent. Senator Lee handed over the gavel to Senator Nething.

Senator Nething opened the hearing on HB 1359 relating to rear-end protection of trucks.

Senator G. Lee introduced and testified in favor of HB 1359. His written testimony is enclosed along with actual pictures of rear end trucks. He stated that there was a window of opportunity that ND missed, when exemptions from the Federal Law were being allowed. The bill would exempt farm trucks, when hauling agricultural products, from the rear bumper requirement.

Representative Belter was unable to attend but he sent written testimony urging support for HB 1359. He stated that ND missed an opportunity to exempt ND from the federal regulations as Minnesota did. He also stated that having bumpers on farm trucks is not practical and would be very expensive to comply with. He urged the committee to pass this bill to send a message to show that we as a state intend to have these trucks exempt.

Representative Aarsvold testified in favor of HB 1359. He stated that most facilities that receive raw agricultural product are set up to have those products unloaded from a rear dump truck. A rear bumper would make it difficult to unload if not impossible. Even if a product

could be designed to provide rear end protection he would judge it to be less than fully effective and the cost would be prohibitive. He encouraged the committee to act favorably on HB 1359.

Dan Wogsland, Executive Director of the ND Grain Growers Association appeared in support of HB 1359. (Written Testimony).

Senator Potter asked if the law was not being enforced now.

Mr. Wogsland said that there were individuals in the room that could better answer that question.

Senator Potter said that the legislature passed a minimum wage bill contingent on Federal action. Would the sponsors be content with making this bill contingent upon receiving the Federal waiver?

Mr. Wogsland said he could not speak for all the sponsors but he said that he believes that all should work together to make this work. At present there is a real liability issue. He is concerned about what happens to that farmer when there is an accident. Also to put a bumper on all of these trucks, in some cases the bumper is going to be worth more than the truck.

Sandy Clark representing the NDFB testified in support of SB1359. (Written Testimony)

Senator Fiebiger said that this window of opportunity for an exemption was many years ago and he said he had worked with the Federal Government and wondered if they would consider going back and giving the exemption. Is it a realistic assumption that the Federal Government will consider the exemption?

Sandy Clark said she believes that it is possible. She gave an example of an issue that FB had with a Federal Agency in ND and the head of the agency knew exactly what they needed to do but sometime the middle management doesn't want to change. She said we have to try to get this exemption.

Deana Wiese, administrator of the ND Ag Coalition spoke in support of HB 1359. Agricultural producers in no way want to compromise safety or federal funding, but do feel the law as it currently stands puts a great burden on producers transporting their commodities. Fitting rear unloading trucks with bumpers is cost-prohibitive, as well as extremely impractical. (Written Testimony)

Opposing Testimony

Colonel Bryan Klipfel, Superintendent NDHP spoke in opposition of HB 1359. There concern is safety as well as fiscal responsibility. (Written testimony and pictures enclosed).

Senator Bakke asked how many accident have there been related to not having rear end bumpers on trucks and how serious have these accidents been.

Col. Klipfel said that they haven't had many in this state but about 3 weeks ago SD had a farm truck that was turning into a place and a car ran into the back of the vehicle and there was a person killed and another severely injured. He said that we have had accidents in ND but he couldn't recall any.

Senator Lee said that given the situation with the fact that we should be enforcing something on the books and the farm group situation, he asked where Col. Klepfel thought these groups might come together.

Col. Klipfel said he thinks it will be very difficult to get the exemption. He said that he would be willing to try even if they had to go to WDC. He believes the exemptions for farm trucks will be very hard to get but he said they could try.

Senator Bakke asked if she understood it correctly that the Hwy Patrol is not enforcing this law at present and what is the penalty if the truck doesn't have a bumper.

Col. Klipfel said they haven't been sitting at the beet dumps or elevators to catch these farmers but if they have an inspection set up and this truck comes in, they will take enforcement at that time.

Senator Bakke asked what the penalty was.

Col. Klipfel said it is an inspection and goes down on their record as a violation.

Senator Potter asked if we were in compliance with Federal Law if we leave the law the same. To clarify, Senator Potter asked, "Does Federal Law require a penalty?"

Col. Klipfel said the real penalty is that the violation is put on the inspection form and there would be a safety hazard on the record of that vehicle. Also if there was an accident there could be some ramification.

Tom Balzer of the NDMCA testified in opposition to HB 1359. His written testimony is enclosed along with a letter from Jeffrey Jensen, Federal Motor Carrier Safety Administration.

Senator Nething asked if he had testified in the House.

Tom Balzer answered, "Yes".

Keith Magnusson, of the NDDOT said that their concern was the funding if Federal funds are lost. It will jeopardize HWY funds.

Senator Potter referred to the letter that Keith had and said that if improvement in enforcement are not made they will consider cutting off funds. They are not referring to the rear bumpers they are talking about size and weight.

Mr. Magnusson said that we are removed from this but if the Hwy Patrol loses funding to regulate size and weight than the DOT has to do it.

Senator Lee closed the hearing on HB 1359.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1359

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: 4183

Committee Clerk Signature *Judy Hauge*

Minutes:

Senator Lee called the Transportation committee to order to discuss HB 1359 a bill relating to rear-end protection of trucks. Senator Lee said that they were working with the Highway Patrol, DOT, Truck Regulatory and the Congressional Delegation to see if they could get that exemption for farm trucks. We are trying to keep the bill around so this has time to happen.

Senator Lee offered an amendment that would provide a sunset that if this bill passed it would sunset on July 31, 2009.

Senator Nothing moved amendment 70669.0101 to HB 1359.

Senator Potter seconded the amendment.

The clerk called the roll 6-0-0.

Senator Andrist moved a Do Pass as amended for HB 1359.

Senator Bakke seconded the motion.

Senator Potter had a question on if passing the law puts us in violation.

Senator Lee said the Federal Law was passed in 1988 and it said that we had to have these rear-end bumpers and nearly every farm truck does not have a rear-end bumper. So we are in violation and the Highway Patrol has not strongly enforced it. The Highway Patrol is getting concerned about looking the other way and through the bill it would say that they wouldn't

enforce the rule as it exists in Federal Law. We can do this but there is a risk in losing Federal Funding. We don't want that to happen either.

Senator Potter expressed his concern about losing these Federal Funds.

Senator Nething said that we have a Federal delegation that has the contacts and can work with the Federal offices and hopefully get the exemption for farm trucks. He expressed a concern to protect our farmers.

Senator Bakke asked if we might consider an amendment to this bill that would state it is contingent upon approval from the Federal Government.

Senator Lee said that farmers would still be in violation of Federal Law. There is not a bumper out there that will satisfy the criteria that they have. NDSU is working on a design but they couldn't pass the inspections.

Senator Nething said that we are in violation with the Federal Law but what this bill changes is it gives direction to our local enforcement people.

Senator Fiebiger asked that if what we are trying to do is give more time to our Federal delegation to see if they can't get the exemption for farm trucks. He is not opposed but concerned that the next 18 months may not make a difference.

Senator Lee said that our Congressional Delegation is in a majority position and that could make a huge difference.

The clerk called the roll 6-0-0

Senator Lee will carry the bill.



Handwritten signature and initials, possibly "G. Lee", with the date "3-1-7" written below it.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1359

Page 1, line 2, after "trucks" insert "; and to provide an expiration date"

Page 1, after line 10, insert:

"SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2009,
and after that date is ineffective."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1359: Transportation Committee (Sen. G. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1359 was placed on the Sixth order on the calendar.

Page 1, line 2, after "trucks" insert "; and to provide an expiration date"

Page 1, after line 10, insert:

"SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2009, and after that date is ineffective."

Renumber accordingly

2007 HOUSE TRANSPORTATION

CONFERENCE COMMITTEE

HB 1359

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1359

House Transportation Committee

Check here for Conference Committee

Hearing Date: 04-13-2007

Recorder Job Number: 5983

Committee Clerk Signature

Lisa M Thomas

Minutes:

The conference committee on HB 1359 was called to order. Chairman Weisz, Rep. Owens, Rep. Schmidt, Sen. G. Lee, Sen. Nething, and Sen. Bakke were all present.

Sen. Lee: We didn't do a whole lot to this bill, we simply added a expiration date to the bill that would sunset after the next biennium.

Rep. Weisz: Some of us have some issues with this so I think we will just adjourn this committee until we have some further information.

The hearing was closed. No action was taken at this time.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1359

House Transportation Committee

Check here for Conference Committee

Hearing Date: 04-19-2007

Recorder Job Number: 6140

Committee Clerk Signature

Minutes:

The conference committee on HB 1359 was called to order. All conferees members were present. HB 1359 relates to rear-end protection of trucks.

Sen. G. Lee proposed amendments. See attached.

Sen. G. Lee: The amendments were originally from Rep. Owens and I just added one little thing that. It keeps the, pretty much the original section one intact except on page one, line eight after the second truck there it includes also trailer. That is to accommodate those semi-trailers to be used as agricultural in hauling farm products that they would be included in there as well. Then in section two, it is just a study during the interim of the federal motor carriers safety regulations and exemptions and then section three as everyone knows, the highway patrol has began the application process for an exemption from this federal provision of having a rear-end protection on farm trucks and that application we are suggesting and telling them here needs to be put in by July 1st of this year, or if it isn't this bill as written and passed will become law on August 1st and once the application is submitted if it takes time for the feds to act on it we will continue in that state of unknown until October 1st, 2008 at which time the law would become effective if it would be passed. That will allow the federal funds we expect to

continue through the biennium and if the next legislative session needs or wants to deal with it then if it does pass, they are able to do that.

Sen. Nething seconded the amendments.

Rep. Owens: All I was going to mention is to thank Sen. Lee for adding the trailers on because I have a note here that says not to forget trailers.

Sen. Bakke: The one thing I want to clarify is let's say that we apply for the exemption and we don't get it. Does this still go into law?

Rep. Weisz: This would become effective on October 1st, 2008, regardless, which will mean that the sixty-first legislative assembly will probably have to address the issue at that point in time, but the reason for that date being put in there is that we will definitely know one, when we come in January of 2009 whether or not we are going to lose the federal funding. I think you will know that if it is going to be withdrawn or not and we will know if we got the exemption or not obviously and then that body will have to make a decision how it is going to deal with that. There is obviously several options, they can just do away with the law and go back to the way it was, or decide to accept the loss of funds and replace them with general funds or possibly other alternatives but I think everything will be on the table and we will know exactly where we stand, so that was the reason that it was specific to go into affect prior to the session, but not early enough so that there is going to be a struggle there or lose funds possibly in 2007 and what is the highway patrol going to do potentially for a year and then the ripple effect of possibly shaking down to the DOT that they could lose some federal funding because they are not in compliance on the weight enforcement area. That is the reason for the language.

Sen. Bakke: So there is no way we would lose funds between now and the next time we are here?

Rep. Weisz: I would say never say never, but there is always a provision in place to correct your deficiency and get back in to good graces, so you have two months before your meeting and I have never seen a federal bureaucracy even be able to start to move that fast and that is the reason. I am not saying there is going to be an intent that we plan to withhold the federal funding but you always have periods to fix the addition fee or the reason why your funds are being withheld. We will be back in on the second or third of January, if necessary; you can take action within two or three weeks. The highway patrol has to do everything possible to make sure it's a good application and expeditiously so we get the exemption if at all possible and if we don't get the exemption I think you will then see both the highway patrol working with legislators and others to come up with a solution as we go into the 2009 session. I think this is probably as good of a compromise as they could come up with. It would have been nice if we could have known whether or not we get the exemption, but obviously we don't have that.

Rep. Schmidt: I would expect that there will be an interim study.

Sen. Nething: On that issue it would be helpful if the two chairman of the Transportation committees would write a letter to the council urging them to do that and set out your visions because I think that is important sometimes. I know when I have been on a council in the past, nobody would ever care about the study and this is one we should care about.

Rep. Weisz: That is an excellent suggestion and I will do that.

Rep. Weisz: Clerk will call the roll for the **Senate to recede from the Senate amendments and to adopt amendments .0103**

Roll Call Vote: 6 yes. 0 no. 0 absent.

Carrier: Rep. Weisz

The conference committee was dissolved.

April 18, 2007

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1359

That the Senate recede from its amendments as printed on pages 1406 and 1407 of the House Journal and page 911 of the Senate Journal and that House Bill No. 1359 be amended as follows:

Page 1, line 2, after "trucks" insert "and trailers; to provide for a legislative council study; and to provide for a contingent effective date"

Page 1, line 8, after the second "truck" insert "or trailer"

Page 1, after line 10, insert:

"SECTION 2. LEGISLATIVE COUNCIL - EXEMPTION FROM FEDERAL MOTOR CARRIER SAFETY REGULATIONS STUDY. The legislative council shall consider studying, during the 2007-08 interim, federal motor carrier safety regulations and exemptions for interstate and intrastate transportation in relation to this state's laws and exemptions. This study shall include a review of any industry-specific applications of regulations and possible exemptions to current transportation activities within this state.

SECTION 3. CONTINGENT EFFECTIVE DATE. Section 1 of this Act becomes effective on the earlier of October 1, 2008, or on approval of this state's application for exemption from rear-end protection requirements for vehicles in section 1 of this Act by the federal motor carrier safety administration, unless the superintendent of the highway patrol does not complete and submit an application for exemption for vehicles in section 1 of this Act by July 1, 2007, then section 1 of this Act becomes effective on August 1, 2007."

Renumber accordingly

Conference Committee Amendments to HB 1359 (70669.0104) - 04/19/2007

That the Senate recede from its amendments as printed on pages 1406 and 1407 of the House Journal and page 911 of the Senate Journal and that House Bill No. 1359 be amended as follows:

Page 1, line 2, after "trucks" insert "and trailers; to provide for a legislative council study; and to provide for a contingent effective date"

Page 1, line 8, after the second "truck" insert "or trailer"

Page 1, after line 10, insert:

"SECTION 2. LEGISLATIVE COUNCIL - EXEMPTION FROM FEDERAL MOTOR CARRIER SAFETY REGULATIONS STUDY. The legislative council shall consider studying, during the 2007-08 interim, federal motor carrier safety regulations and exemptions for interstate and intrastate transportation in relation to this state's laws and exemptions. This study shall include a review of any industry-specific applications of regulations and possible exemptions to current transportation activities within this state. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 3. CONTINGENT EFFECTIVE DATE. Section 1 of this Act becomes effective on the earlier of October 1, 2008, or on approval of this state's application for exemption from rear-end protection requirements for vehicles in section 1 of this Act by the federal motor carrier safety administration, unless the superintendent of the highway patrol does not complete and submit an application for exemption for vehicles in section 1 of this Act by July 1, 2007, then section 1 of this Act becomes effective on August 1, 2007."

Re-number accordingly

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1359 (, as (re)engrossed):

Date: 4-19-07

Your Conference Committee TRANS

For the Senate:

For the House:

	YES / NO			YES / NO	
Sen. G. Lee	X		Rep. Waisz Weisz	X	
Sen. Nothing	X		Rep. Owens	X	
Sen. Bakke	X		Rep. Schmidt	X	

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1406 -- 1407

____, and place ~~_____~~ on the Seventh order.

X, adopt (~~further~~) amendments as follows, and place 1359 on the Seventh order:

____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: 3-19-07

CARRIER: Weisz

LC NO. _____	of amendment
LC NO. _____	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Sen. G. Lee

SECONDED BY: Sen. Nothing

VOTE COUNT 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1359: Your conference committee (Sens. G. Lee, Nething, Bakke and Reps. Weisz, Owens, Schmidt) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1406-1407, adopt amendments as follows, and place HB 1359 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1406 and 1407 of the House Journal and page 911 of the Senate Journal and that House Bill No. 1359 be amended as follows:

Page 1, line 2, after "trucks" insert "and trailers; to provide for a legislative council study; and to provide for a contingent effective date"

Page 1, line 8, after the second "truck" insert "or trailer"

Page 1, after line 10, insert:

"SECTION 2. LEGISLATIVE COUNCIL - EXEMPTION FROM FEDERAL MOTOR CARRIER SAFETY REGULATIONS STUDY. The legislative council shall consider studying, during the 2007-08 interim, federal motor carrier safety regulations and exemptions for interstate and intrastate transportation in relation to this state's laws and exemptions. This study shall include a review of any industry-specific applications of regulations and possible exemptions to current transportation activities within this state. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 3. CONTINGENT EFFECTIVE DATE. Section 1 of this Act becomes effective on the earlier of October 1, 2008, or on approval of this state's application for exemption from rear-end protection requirements for vehicles in section 1 of this Act by the federal motor carrier safety administration, unless the superintendent of the highway patrol does not complete and submit an application for exemption for vehicles in section 1 of this Act by July 1, 2007, then section 1 of this Act becomes effective on August 1, 2007."

Renumber accordingly

HB 1359 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1359



Rep Belter

1359

Rear Bumper §393.86

Vehicles manufactured between December 31, 1952 and January 26, 1998 (except for truck tractors, pole trailers, and vehicles engaged in driveaway-towaway operations) with a ground clearance of more than 30 inches must be equipped with a bumper that meets the following criteria:

- Ground clearance shall not exceed 30 inches when the vehicle is empty;
- Located not more than 24 inches forward of the extreme rear of the vehicle;
- Must be sufficiently wide so that the guard's ends are not more than 18 inches inboard from either side;
- Must be substantially constructed and attached with bolts, welding, or other comparable means.

Motor vehicles constructed and maintained so that the body, chassis, or other parts of the vehicle meet the criteria outlined above are considered in compliance.

Trailers and semitrailers manufactured on or after January 26, 1998, with a gross vehicle weight rating of 10,000 pounds or more, must be equipped with a rear impact guard that meets the requirements of 49 CFR 571.223 in effect at the time of the vehicle's manufacture.

The installation of the guard must meet the requirements of 49 CFR 571.224. Section 393.86 (a) (2) through (a)(6) details the specifications for the rear impact guard on such vehicles.

The requirements do not apply to pole trailers (as defined in Sec. 390.5); low chassis vehicles, special purpose vehicles, wheels back vehicles (as defined in Sec. 393.5); and trailers towed in driveaway-towaway operations (as defined in Sec. 390.5).

§393.86 Rear impact guards and Rear end protection.

Topic Rear bumper

(a)(1) **General requirements for trailers and semitrailers manufactured on or after January 26, 1998.** Each trailer and semitrailer with a gross vehicle weight rating of 4,536 kg (10,000 pounds) or more, and manufactured on or after January 26, 1998, must be equipped with a rear impact guard that meets the requirements of Federal Motor Vehicle Safety Standard No. 223 (49 CFR 571.223) in effect at the time the vehicle was manufactured. When the rear impact guard is installed on the trailer or semitrailer, the vehicle must, at a minimum, meet the requirements of FMVSS No. 224 (49 CFR 571.224) in effect at the time the vehicle was manufactured. The requirements of paragraph (a) of this section do not apply to pole trailers (as defined in §390.5 of this chapter); pulpwood trailers, low chassis vehicles, special purpose vehicles, wheels back vehicles (as defined in §393.5); and trailers towed in driveaway-towaway operations (as defined in §390.5).

(a)(2) **Impact guard width.** The outermost surfaces of the horizontal member of the guard must extend to within 100 mm (4 inches) of the side extremities of the vehicle. The outermost surface of the horizontal member shall not extend beyond the side extremity of the vehicle.

(a)(3) **Guard height.** The vertical distance between the bottom edge of the horizontal member of the guard and the ground shall not exceed 560 mm (22 inches) at any point across the full width of the member. Guards with rounded corners may curve upward within 255 mm (10 inches) of the longitudinal vertical planes that are tangent to the side extremities of the vehicle.

(a)(4) **Guard rear surface.** At any height 560 mm (22 inches) or more above the ground, the rearmost surface of the horizontal member of the guard must be within 305 mm (12 inches) of the rear extremity of the vehicle. This paragraph shall not be construed to prohibit the rear surface of the guard from extending beyond the rear extremity of the vehicle. Guards with rounded corners may curve forward within 255 mm (10 inches) of the side extremity.

(a)(5) **Cross-sectional vertical height.** The horizontal member of each guard must have a cross sectional vertical height of at least 100 mm (3.94 inches) at any point across the guard width.

(a)(6) **Certification and labeling requirements for rear impact protection guards.** Each rear impact guard used to satisfy the requirements of paragraph (a)(1) of this section must be permanently marked or labeled as required by FMVSS No. 223 (49 CFR 571.223, S5.3). The label must be on the forward-facing surface of the horizontal member of the guard, 305 mm (12 inches) inboard of the right end of the guard. The certification label must contain the following information:

(a)(6)(i) The impact guard manufacturer's name and address;

(a)(6)(ii) The statement "Manufactured in ____" (inserting the month and year that the guard was manufactured); and,

(a)(6)(iii) The letters "DOT", constituting a certification by the guard manufacturer that the guard conforms to all requirements of FMVSS No. 223.

(b)(1) **Requirements for motor vehicles manufactured after December 31, 1952 (except trailers or semitrailers manufactured on or after January 26, 1998).** Each motor vehicle

manufactured after December 31, 1952, (except truck tractors, pole trailers, pulpwood trailers, or vehicles in driveway-towaway operations) in which the vertical distance between the rear bottom edge of the body (or the chassis assembly if the chassis is the rearmost part of the vehicle) and the ground is greater than 76.2 cm (30 inches) when the motor vehicle is empty, shall be equipped with a rear impact guard(s). The rear impact guard(s) must be installed and maintained in such a manner that:

(b)(1)(i) The vertical distance between the bottom of the guard(s) and the ground does not exceed 76.2 cm (30 inches) when the motor vehicle is empty;

(b)(1)(ii) The maximum lateral distance between the closest points between guards, if more than one is used, does not exceed 61 cm (24 inches);

(b)(1)(iii) The outermost surfaces of the horizontal member of the guard are no more than 45.7 cm (18 inches) from each side extremity of the motor vehicle;

(b)(1)(iv) The impact guard(s) are no more than 61 cm (24 inches) forward of the rear extremity of the motor vehicle.

(b)(2) **Construction and attachment.** The rear impact guard(s) must be substantially constructed and attached by means of bolts, welding, or other comparable means.

(b)(3) **Vehicle components and structures that may be used to satisfy the requirements of paragraph (b) of this section.** Low chassis vehicles, special purpose vehicles, or wheels back vehicles constructed and maintained so that the body, chassis, or other parts of the vehicle provide the rear end protection comparable to impact guard(s) conforming to the requirements of paragraph (b)(1) of this section shall be considered to be in compliance with those requirements.

[64 FR 47708, Sept. 1, 1999]

Nick Sinner

From Rep Belter

From: KLEVLAW@aol.com
Sent: Thursday, January 04, 2007 4:05 PM
To: nick.sinner@rvsga.com
Subject: Bumper language

Nick,

Below is the Minnesota bumper language. Thanks, BK

221.031 (2a)

(b) A rear-end dump truck or other rear-unloading truck while being used for hauling agricultural and other farm products from a place of production or on-farm storage site to a place of processing or storage, is not subject to any rule of the commissioner requiring rear-end protection, including a federal regulation adopted by reference.

No virus found in this incoming message.
Checked by AVG Free Edition.
Version: 7.5.432 / Virus Database: 268.16.4/615 - Release Date: 1/3/2007 1:34 PM

1/4/2007



Rep Belter
Intro

North Dakota Legislative Council

BOB STENEHJEM
State Senator
Chairman

JOHN D. OLSRUD
Director

JAY E. BURINGRUD
Assistant Director

JIM W. SMITH
Legislative Budget
Analyst & Auditor

JOHN WALSTAD
Code Revisor

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360 (701) 328-2916 TTY: 1-800-366-6888

July 24, 2006

Honorable Wesley R. Belter
State Representative
15287 47th Street SE
Leonard, ND 58052-9763

Dear Representative Belter:

This letter is in response to your question relating to exemptions from federal requirements for rear impact guards on motor vehicles and trailers.

Under 49 C.F.R. § 393.86(a), trailers and semitrailers manufactured on or after January 26, 1998, must be equipped with a rear impact guard. The rule provides specific exemptions for pole trailers, pulpwood trailers, low-chassis vehicles, special-purpose vehicles, wheels-back vehicles, and trailers towed in driveaway-towaway operations. Under 49 C.F.R. § 393.86(b), a rear impact guard is required for motor vehicles manufactured after December 31, 1952, with exemptions for truck tractors, pole trailers, pulpwood trailers, or vehicles in driveaway-towaway operations.

Generally, a state must adopt federal motor carrier safety regulations or lose federal funding. A state may receive a specific variance from federal motor carrier safety regulations for intrastate commerce. Enclosed is a copy of 49 C.F.R. § 350.341 that provides for these variances. You mentioned in our telephone conversation that Minnesota has an exemption for certain vehicles. According to a representative from the North Dakota Highway Patrol, Minnesota is allowed an intrastate exemption for rear dump-type trailers. It appears Minnesota has this exemption because, under 49 C.F.R. § 350.341(c), the state had the exemption in effect before April 1988.

Please contact this office with any questions.

Sincerely,

Timothy J. Dawson
TJB

Timothy J. Dawson
Counsel

TJD/JFB
nc.

§350.341 What specific variances from the FMCSRs are allowed for State laws and regulations governing motor carriers, CMV drivers, and CMVs engaged in intrastate commerce and not subject to Federal jurisdiction?

(a) A State may exempt a CMV from all or part of its laws or regulations applicable to intrastate commerce, provided that neither the GVW, GVWR, GCW, nor GCWR of the vehicle equals or exceeds 11,801 kg (26,001 lbs.). However, a State may not exempt a CMV from such laws or regulations if the vehicle:

(a)(1) Transports hazardous materials requiring a placard.

(a)(2) Is designed or used to transport 16 or more people, including the driver.

(b) State laws and regulations applicable to intrastate commerce may not grant exemptions based upon the type of transportation being performed (e.g., for-hire, private, etc.).

(c) A State may retain those exemptions from its motor carrier safety laws and regulations that were in effect before April, 1988, are still in effect, and apply to specific industries operating in intrastate commerce.

(d) State laws and regulations applicable to intrastate commerce must not include exemptions based upon the distance a motor carrier or driver operates from the work reporting location. This prohibition does not apply to those exemptions already contained in the FMCSRs nor to the extension of the mileage radius exemption contained in 49 CFR 395.1(e) from 100 to 150 miles.

(e) Hours of service—State hours-of-service limitations applied to intrastate transportation may vary to the extent of allowing the following:

(e)(1) A 12-hour driving limit, provided driving a CMV after having been on duty more than 16 hours is prohibited.

(e)(2) Driving prohibitions for drivers who have been on duty 70 hours in 7 consecutive days or 80 hours in 8 consecutive days.

(f) Age of CMV driver—All CMV drivers must be at least 18 years of age.

(g) Grandfather clauses—States may provide grandfather clauses in their rules and regulations if such exemptions are uniform or in substantial harmony with the FMCSRs and provide an orderly transition to full regulatory adoption at a later date.

(h) Driver qualifications:

(h)(1) Intrastate drivers who do not meet the physical qualification standards in 49 CFR 391.41 may continue to be qualified to operate a CMV in intrastate commerce if the following three conditions are met:

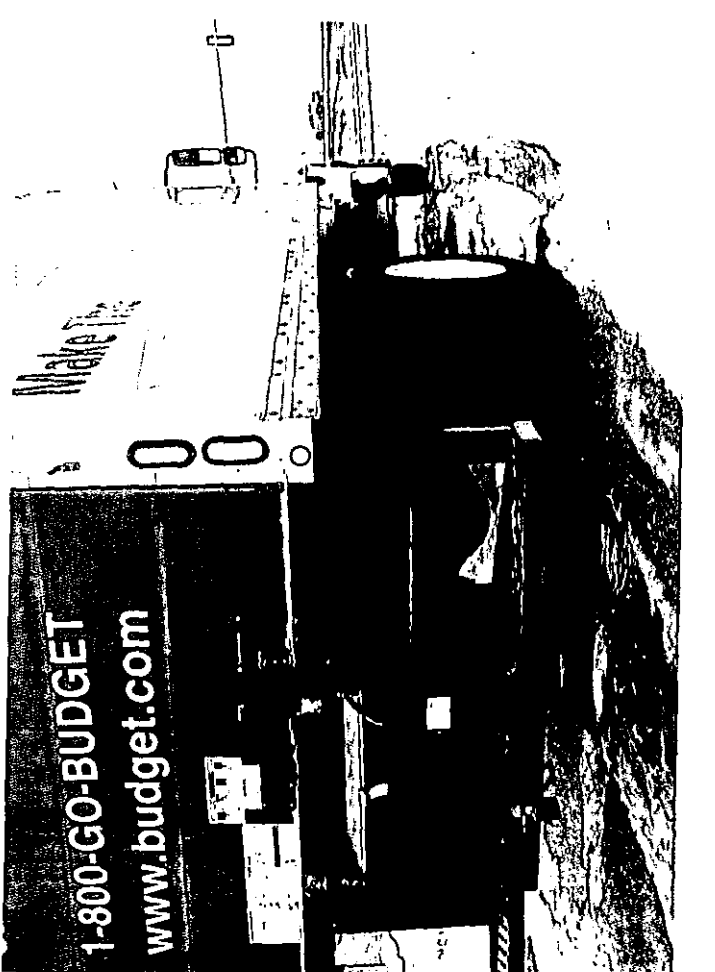
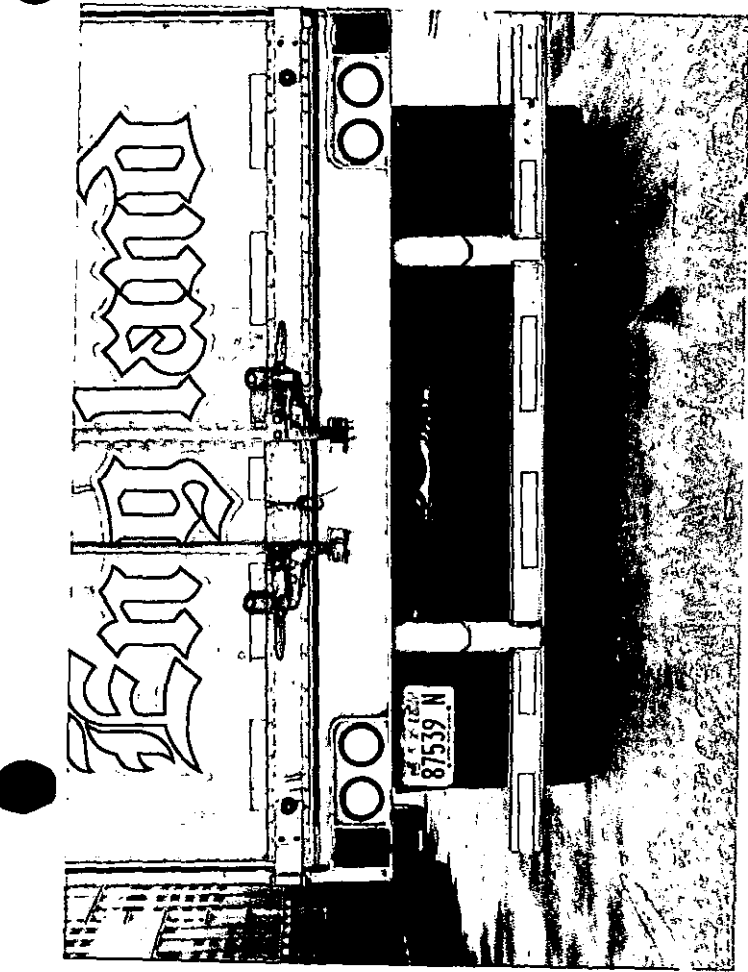
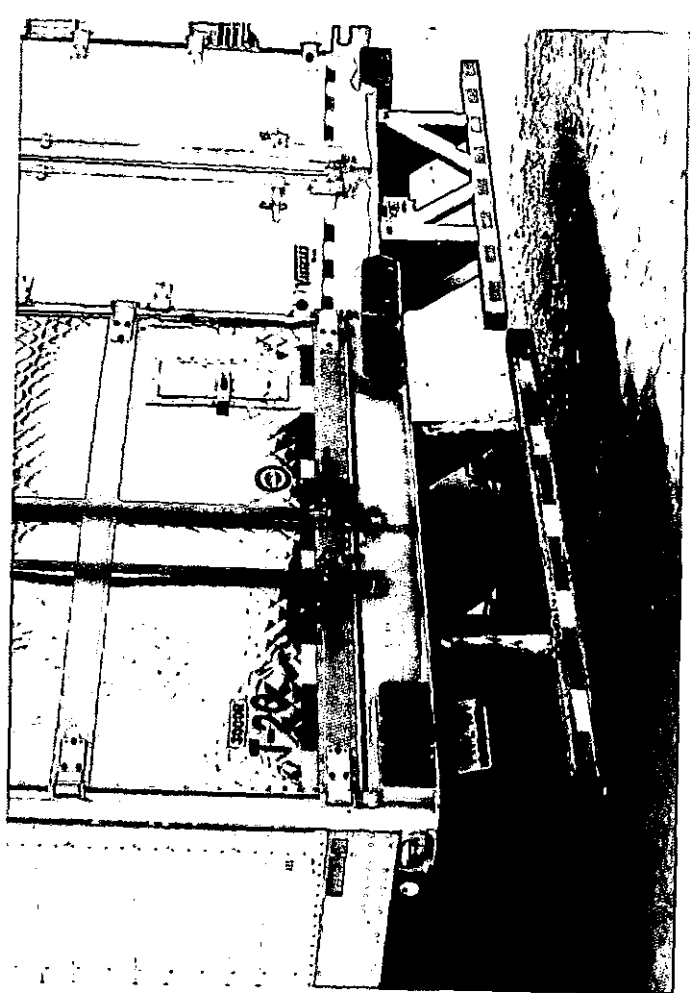
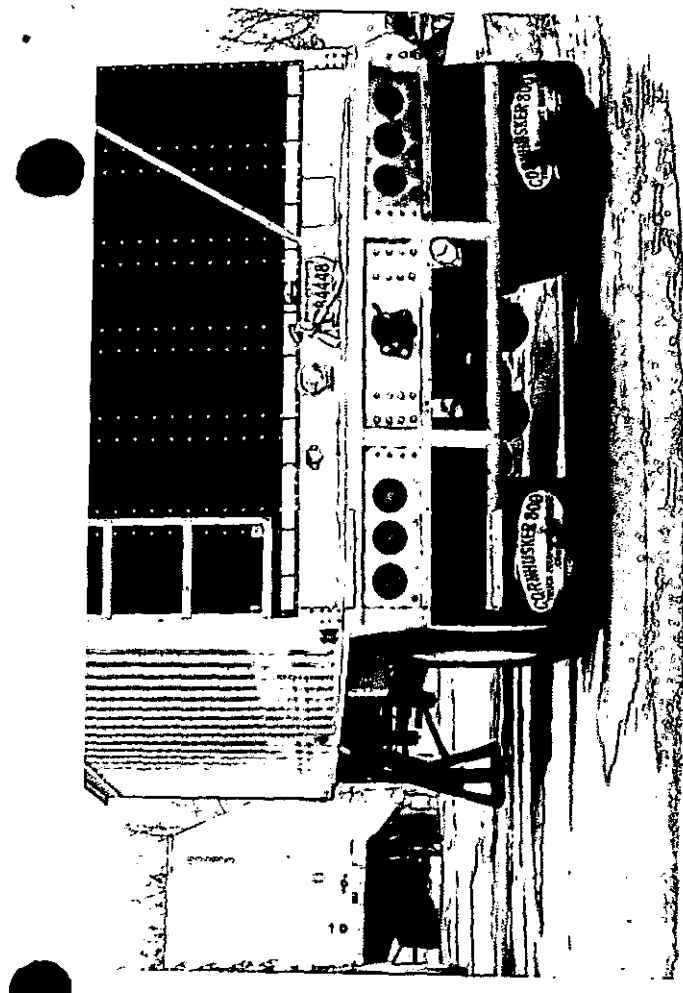
(h)(1)(i) The driver was qualified under existing State law or regulation at the time the State adopted physical qualification standards compatible with the Federal standards in 49 CFR 391.41.

(h)(1)(ii) The otherwise non-qualifying medical or physical condition has not substantially worsened.

(h)(1)(iii) No other non-qualifying medical or physical condition has developed.

(h)(2) The State may adopt or continue programs granting variances to intrastate drivers with medical or physical conditions that would otherwise be non-qualifying under the State's equivalent of 49 CFR 391.41 if the variances are based upon sound medical judgment combined with appropriate performance standards ensuring no adverse affect on safety.

[65 FR 15108, Mar. 21, 2000]



Testimony of Paul Mathiason
Red River Valley Sugarbeet Growers

House Bill 1359

February 1, 2007

Chairman Weisz and members of the House Transportation Committee.

My name is Paul Mathiason and I am the liaison for the Red River Valley Sugarbeet Growers and am here to speak in support of HB 1359.

Although I am a sugarbeet grower the issue of bumpers on farm trucks that HB 1359 addresses is not unique to the sugarbeet industry. All farm trucks are required to have rear end protection if the overhang from end of box to tires exceeds a certain minimum.

This rule became known to the sugarbeet growers because of the need for many trucks to cross the broder from both sides of the river during harvest. Although it is necessary to have bumpers when crossing state lines, the growers discovered the inconsistency between Minnesota and North Dakota in that Minnesota exempts farm trucks from the requirement and North Dakota does not.

HB 1359 is designed to remove this inconsistency. I urge your support of this bill.

NORTH DAKOTA



GRAIN GROWERS

www.ndgga.com

***Working for you,
the producer!***

January 31, 2007

House Transportation Chairman Weisz, Members of the House Transportation Committee,

For the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association. I appear today in support of HB 1359.

Public safety is a major concern of NDGGA, just as it is with all farm and commodity groups. That said, it is also important that practicality play a part in the regulation and enforcement of public safety concerns. That is why HB 1359 comes before you today.

Federal Transportation rear bumper rules as they are today would serve as a hindrance in the delivery of agriculture commodities. These proposed bumpers would disrupt the existing agriculture delivery chain of farm commodities because the delivery system is not designed to accommodate truck bumpers as proposed. These rules may in fact serve to endanger farm operators, delivery equipment and delivery personnel, endangering some of the very public the rules seek to protect. As proposed the bumper rules for agriculture do not pass the practicality test.

HB 1359 seeks reasonability in the transportation of farm commodities. By preventing the Highway Patrol from adopting or enforcing bumper rules for agriculture, commodity deliveries can continue as before without compromising public safety.

Therefore the North Dakota Grain Growers Association asks for the House Transportation Committee for a favorable recommendation of HB 1359.

NDGGA provides a voice for wheat and barley producers on domestic policy issues – such as crop insurance, disaster assistance and the Farm Bill – while serving as a source for agronomic and crop marketing education for its members.



North Dakota Farm Bureau

Bringing ag home

1101 1st Ave. N., Fargo, ND 58102
P.O. Box 2064, Fargo, ND 58107-2064
Phone: 701-298-2200 • 1-800-367-9668 • Fax: 701-298-2210

4023 State St., Bismarck, ND 58503
P.O. Box 2793, Bismarck, ND 58502-2793
Phone: 701-224-0330 • 1-800-932-8869 • Fax: 701-224-9485

House Transportation Committee

February 1, 2007

HB 1359 Testimony by North Dakota Farm Bureau

presented by Sandy Clark, public policy team

Good morning, Chairman Weisz and members of the committee. My name is Sandy Clark and I represent North Dakota Farm Bureau.

Unfortunately I have another hearing this morning and cannot attend your hearing, but North Dakota Farm Bureau would like to submit the following written testimony on HB 1359.

North Dakota Farm Bureau supports HB 1359. The federal law, which requires impact guards and rear-end protection for trucks, is detrimental to the agricultural industry.

Loading and unloading of commodities is a problem with rear truck bumpers.

We understand the federal law requires that the truck bumper must be meet certification and labeling requirements, including the manufactures name and address, month and year of manufacture and the letters DOT constituting the certification.

We would interpret this to mean that the bumpers can only be purchased from certified manufactures. We understand that these bumpers are expensive and it is costly for the manufacturer to become certified.

Farmers cannot construct these bumpers in their shops. They must purchase them from the manufacturer.

Our members believe North Dakota should be exempt from this cumbersome law.

North Dakota Farm Bureau urges a "do pass" recommendation on HB 1359. Thank you for your consideration.

House Bill 1359

Submitted by

Opposed

Colonel Bryan Klipfel, Superintendent NDHP

February 1, 2007

Good morning, Mr. Chairman and members of the House Transportation Committee. My name is Doyle Schulz and I am the Motor Carrier Operations Director for the North Dakota Highway Patrol. I am presenting this information on behalf of Bryan Klipfel, superintendent of the Highway Patrol. I am here today to provide information regarding HB 1359 as it relates to safety and fiscal responsibility. What we are addressing today is the elimination of a piece of safety equipment required under Chapter 49 Code of Federal Regulations part 393.86 (Rear impact guards and rear end protection) and certain trucks hauling agricultural products. These regulations were adopted under the authority of Title 39 section 39-21-46(3) and are applicable to both inter and intra state operations as stated in the North Dakota Administrative Code 38-04-01-01.

Rear impact guards have been a requirement on motor vehicles since 1952 with some exemptions. This piece of safety equipment, as applied to trucks, trailers and semitrailers, is designed to prevent a smaller vehicle from traveling under and striking the elevated rear of the truck, trailer and semitrailer in the windshield area of the smaller vehicle. This is a safety device designed for the protection of the public and should not be eliminated on any vehicles that currently require this piece of safety equipment. If this bill were to pass and benefit this particular industry, why wouldn't others also request this exemption?

The second reason for our concern regarding this bill is explained in the letter from Mr. Jeffrey Jensen, Division Administrator, North Dakota, Federal Motor Carrier Safety Administration which all of you received.

The Highway Patrol has worked hard to develop and implement a motor carrier safety program. Our personnel inspect over 17,000 commercial motor vehicles and drivers a year, conduct compliance reviews on unsafe carriers, and safety audits on new carriers. This program is essential to ensure that the commercial vehicles operating in and through the state are safe and do not present a danger to our citizens.

As stated in the letter from Mr. Jensen, if this law were to pass, the state would be considered incompatible with the regulation and the Federal Motor Carrier Administration would be justified in withholding our funding. If this were to happen it would be necessary to eliminate one administrator, nine trooper positions, six motor carrier positions, and most likely three safety auditor positions. This is basically our motor carrier safety program. North Dakota would be the only state or territory without a Motor Carrier Safety Assistance Program.

In addition, the Federal Highway Administration issued a letter to me dated October 3, 2006, stating the present size and weight enforcement activity is approaching inadequacy and may not meet the intent of 23 CFR Part 657. Ultimately, Federal

HB 1359

Submitted by Colonel Bryan Klipfel, NDHP

2/1/07

Page 2

Highway may include sanctions against North Dakota Department of Transportation which may include withholding federal aid funds. The nine trooper positions and six motor carrier positions are also involved in size and weight enforcement in conjunction with the safety inspections. The loss of these positions would impact the Highway Patrol's size and weight efforts.

Thank you, Mr. Chairman. I would be happy to answer any questions you have at this time.



U.S. Department
of Transportation

1471 Interstate Loop
Bismarck, ND 58501

**Federal Motor Carrier
Safety Administration**

January 29, 2007

Colonel Bryan R. Klipfel, Superintendent
North Dakota Highway Patrol
600 East Boulevard Avenue
Bismarck, ND 58505

Dear Colonel Klipfel:

Mr. Doyle F. Schultz, Director of Motor Carrier Operations, made a formal request for FMCSA's position regarding House Bill No. 1359, Exemption from rear-end protection requirements. If this bill became law in North Dakota, it would create several incompatibilities with the Federal Motor Carrier Safety Regulations (FMCSRs), as outlined below:

The regulations governing the Motor Carrier Safety Assistance Program (MCSAP) prohibit any State law or regulation applicable to interstate commerce that is less stringent than the corresponding Federal regulation (49 CFR 350.333). The bill states: "The superintendent of the highway patrol may not adopt or enforce any law or rule requiring rear-end protection . . ." The FMCSRs include very specific requirements for rear-end protection on trucks in interstate commerce (49 CFR 393.86).

The MCSAP regulations allow only limited variances from the FMCSRs for State laws and regulations applicable to intrastate commerce (49 CFR 350.341; see also 49 CFR 350.333 and 350.339). Among other things, they allow a State to retain industry-specific exemptions that were in effect before April 1988. The provisions of House Bill No. 1359 were not in effect in 1988, and they apply to ". . . rear-end protection on a rear-end dump truck or other rear unloading truck while being used for hauling agricultural and other farm products . . ." This is a new exemption for a specific industry.

Therefore, if House Bill No. 1359 became law in North Dakota, the State would have a new law that is incompatible with Federal regulations. Under these circumstances, the Federal regulations are very clear: "A State that currently has compatible CMV safety laws and regulations pertaining to interstate commerce (i.e., rules identical to the FMCSRs and HMRs) and intrastate commerce (i.e., rules identical to or within the tolerance guidelines for the FMCSRs and identical to the HMRs) but enacts a law or regulations which results in an incompatible rule will not be eligible for Basic Program Funds or Incentive Funds" (49 CFR 350.335). During FY 2006, FMCSA obligated \$1,208,965 in Federal MCSAP Basic Program Funds to North Dakota.

Sincerely,

Jeffrey P. Jensen
Division Administrator

cc: Mr. Michael J. Lamm, Division Chief, FMCSA State Programs Division
Mr. William R. Paden, Field Administrator, FMCSA Western Service Center
Ms. Susan Seckler, State Programs Specialist, FMCSA Western Service Center
Mr. Doyle F. Schulz, Director of Motor Carrier Operations, North Dakota Highway Patrol

**TESTAMONY
HOUSE BILL 1359
TRANSPORTATION COMMITTEE
FEBRUARY 23, 2007**

Mr. Chairman and members of the Senate Transportation committee my name is Tom Balzer, managing director of the North Dakota Motor Carriers Association. I am here this morning to testify in opposition of House Bill 1359.

When rear end protection, also know as an ICC bumper, was first required on trucks it was considered one of the greatest passenger automobile safety devices the trucking industry had taken on. This bumper provides a point of contact for the passenger vehicle which is at the front bumper level as opposed to the windshield level. The ICC bumper prevents decapitation or other serious injury from occurring during an automobile to truck rear end impact. This type of crash makes up approximately 12% of all crashes involving commercial motor vehicles.

Passage of this legislation would not only decrease safety of our roadways it would also cause a ripple effect of funding reductions for the state of North Dakota. We understand the concerns of the agriculture community but under Federal regulation there is little room for exemption in this regard and therefore this decision would have larger than intended consequences.

The first reduction in funding would be \$1.2 million in the Motor Carrier Safety Assistance Program. These are funds that are used for safety inspections, weight enforcement and commercial motor vehicle safety education. I have provided a copy of a letter from the North Dakota Division Administrator of the Federal Motor Carrier Safety Administration to this affect.

Because the Highway Patrol will no longer have the funding from MCSAP to do weight enforcement at a level equal to or greater than what we currently do, as we currently operate at the minimum allowable level, this puts 10% or \$40 million of the Federal Highway funding at stake.

Without a Federal exemption given prior to the implementation of this legislation the state of North Dakota would be the first state to be considered backsliding on Federal safety regulations and jeopardize necessary federal funding.

The other concern we have is with the vague definitions used in this legislation. For example on line 8 it refers to "other rear unloading truck" with the exception of moving trucks and side dumps all truck are rear unloading. This coupled with the definition of the product as starts on line 8 of "agricultural and other farm products" Does a bag of potatoes or peas, or honey moving from the packaging facility to the distribution warehouse meet this definition? Or, why would a combine being moved be treated differently than construction equipment.

Other sections of Century Code define the use of commercial motor vehicles for farm use very specifically and we feel this case should be no different. Without such a definition change this legislation could provide an unfair competitive environment for hire carriers of agricultural products.

This issue in not a simple as it looks on the surface and one that we ask is closely investigated. Mr. Chairman, we respectfully ask for a DO NOT PASS recommendation. This concludes my testimony and I would be happy to answer any questions the committee may have.

February 23, 2007

HB 1359 – Rear-End protection of trucks.

Senate Transportation Committee members for the record, I am Senator Gary A. Lee, District 22.

HB 1359 comes because of a problem Federal Law has created. The law requires, essentially all trucks, made after 1952 to have a rear bumper.

The goal of the law is admirable, in that it is intended to reduce the number of deaths & serious injuries that occur when light duty vehicles collide with the rear end of a truck or semi-trailer.

The difficulty for North Dakota is that agricultural trucks don't comply. They probably have never had rear bumpers. According to the Department of Transportation there were 36,207 trucks registered in the farm category in 2006 in this State.

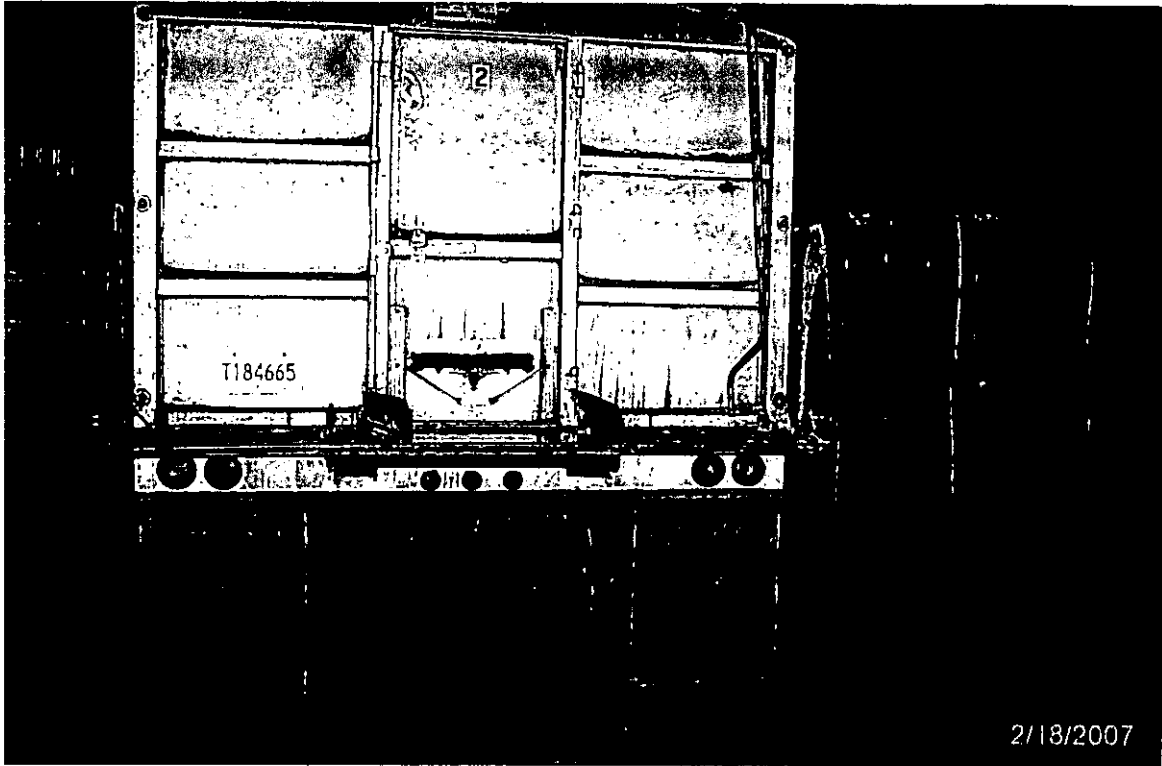
There doesn't seem to be a certifiable bumper available. A rear bumper, as we might know them, simply won't work for agricultural trucks for unloading grain, beets, potatoes or other commodities.

There was a window of opportunity that ND missed, when exemptions from the Federal Law were being allowed. This bill is modeled after the language used for the Minnesota exemption that was granted. South Dakota and Montana are in the same predicament as North Dakota.

So, the bill would exempt farm trucks, when hauling agricultural products, from the rear bumper requirement.

If passed, it does potentially put at risk Federal Funds, of ~\$2.4 million over the biennium. These are funds used for the truck weight monitoring program. There is also the added potential for Federal dollars lost if we don't meet the weight monitoring requirements.

But by moving this bill forward, as Representative Belter's, comments indicate we can demonstrate the intent the State has for pursuing this exemption. Over the next couple of months we can continue to work with the Highway Patrol and our Congressional Delegation to achieve the Federal exemption.



2/18/2007




2/19,2007

HB1359 Representative Wesley R. Belter

February 22, 2007

Chairman Lee, members of the Senate Transportation Committee. I urge your support for HB1359. At the present time trucks licensed for agriculture use are not in compliance with federal regulations concerning truck bumpers. Unfortunately the state missed an opportunity to exempt ourselves from the federal regulations as Minnesota did. Having bumpers on farm trucks is not practical and would be very expensive to comply with. I know that the Highway Patrol is working very hard to see whether there is an opportunity for our state to get the federal exemption. In the mean time I believe it is important to show that we as a state intend to have these trucks exempt.

Thank you for your consideration, and I urge your support of HB1359.


Representative Wesley R. Belter
District 22



North Dakota Farm Bureau

Bringing ag home

1101 1st Ave. N., Fargo, ND 58102
P.O. Box 2064, Fargo, ND 58107-2064
Phone: 701-298-2200 • 1-800-367-9668 • Fax: 701-298-2210

4023 State St., Bismarck, ND 58503
P.O. Box 2793, Bismarck, ND 58502-2793
Phone: 701-224-0330 • 1-800-932-8869 • Fax: 701-224-9485

Senate Transportation Committee

February 23, 2007

HB 1359 Testimony by North Dakota Farm Bureau

presented by Sandy Clark, public policy director

Good morning, Chairman Lee and members of the committee. My name is Sandy Clark and I represent North Dakota Farm Bureau.

North Dakota Farm Bureau supports HB 1359. The federal law, which requires impact guards and rear-end protection for trucks, is detrimental to the agricultural industry. Loading and unloading of commodities is a problem with rear truck bumpers.

We understand the federal law requires that the truck bumper must meet certification and labeling requirements, including the manufacturers name and address, month and year of manufacture and the letters DOT constituting the certification.

We would interpret this to mean that the bumpers can only be purchased from certified manufacturers. We understand that these bumpers are expensive and it is costly for the manufacturer to become certified.

Farmers apparently can't construct these bumpers in their shops. They must purchase them from the manufacturer. With 36,207 farm trucks registered in North Dakota, in addition to an undetermined number of semi-trucks registered by farmers, this law will cost the agricultural industry literally millions of dollars.

Our members believe North Dakota agriculture should be exempt from this cumbersome and costly law.

North Dakota Farm Bureau urges a "do pass" recommendation on HB 1359. Thank you for your consideration. I would try to answer any questions you may have.



P.O. Box 2599
Bismarck, ND 58502
(701) 355-4458
FAX (701) 223-4645

MEMBERS

AmeriFlax
Milk Producers Association of North Dakota, Inc.
Minn-Dak Farmers Co-op
North Dakota Ag Aviation Association
North Dakota Ag Consultants
North Dakota Agricultural Association
North Dakota Agri-Women
North Dakota Association of Soil Conservation Districts
North Dakota Association of Agricultural Educators
North Dakota Barley Council
North Dakota Beef Commission
North Dakota Corn Growers Association
North Dakota Corn Utilization Council
North Dakota Crop Improvement and Seed Association
North Dakota Department of Agriculture
North Dakota Dry Bean Council
North Dakota Elk Growers
North Dakota Farm Bureau
North Dakota Farm Credit Council
North Dakota Grain Dealers Association
North Dakota Grain Growers Association
North Dakota Lamb and Wool Producers
North Dakota Oilseed Council
North Dakota Pork Producers
North Dakota Soybean Growers Association
North Dakota State Seed Commission
North Dakota Wheat Commission
Northern Canola Growers Association
Northern Plains Potato Growers Association
Northern Pulse Growers Association
Plover Valley Sugarbeet Growers Association

Testimony of Deana Wiese

North Dakota Ag Coalition

House Bill 1359

February 23, 2007

Chairman Lee and members of the Senate Transportation Committee:

My name is Deana Wiese, and I am here today as the administrator of the North Dakota Ag Coalition. On behalf of the Ag Coalition, I encourage your support of HB 1359.

The Ag Coalition has provided a unified voice for North Dakota agricultural interests for 20 years. Today, we represent 30 statewide organizations and associations that represent specific commodities or have a direct interest in agriculture. Through the Ag Coalition, these members seek to enhance the business climate for North Dakota's agricultural producers.

The Ag Coalition takes a position on only a limited number of issues brought to us by our members that have significant impacts on North Dakota's agriculture industry. This bill affects agricultural producers statewide and across numerous commodities.

Agricultural producers in no way want to compromise safety or federal funding, but do feel the law as it currently stands puts a great burden on producers transporting their commodities. Fitting rear unloading trucks with bumpers is cost-prohibitive, as well as extremely impractical.

For these reasons, the Ag Coalition encourages your support of HB 1359.



February 22, 2007

Senate Transportation Chairman Lee, Members of the Senate Transportation Committee,

For the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association. I appear today in support of HB 1359.

Public safety is a major concern of NDGGA, just as it is with all farm and commodity groups. That said, it is also important that practicality play a part in the regulation and enforcement of public safety concerns. That is why HB 1359 comes before you today.

Federal Transportation rear bumper rules as they are today would serve as a hindrance in the delivery of agriculture commodities. These proposed bumpers would disrupt the existing agriculture delivery chain of farm commodities because the delivery system is not designed to accommodate truck bumpers as proposed. In fact, the rules at present may serve to endanger farm operators, delivery equipment and delivery personnel to name but a few; these are the very people the rules seek to protect. As proposed the bumper rules for agriculture do not pass the practicality test.

HB 1359 seeks reasonability in the transportation of farm commodities. By preventing the Highway Patrol from adopting or enforcing bumper rules for agriculture, commodity deliveries can continue as before without compromising public safety.

Therefore the North Dakota Grain Growers Association requests that the Senate Transportation Committee for a favorable recommendation of HB 1359.

House Bill 1359

Submitted by

Colonel Bryan Klipfel, Superintendent NDHP

February 23, 2007

Good morning, Mr. Chairman and members of the Senate Transportation Committee. My name is Bryan Klipfel and I am Superintendent of the North Dakota Highway Patrol. I am here today to provide information regarding HB 1359 as it relates to safety and fiscal responsibility. What we are addressing today is the elimination of a piece of safety equipment required under Chapter 49 Code of Federal Regulations part 393.86 (Rear impact guards and rear end protection) and certain trucks hauling agricultural products. These regulations were adopted under the authority of Title 39 section 39-21-46(3) and are applicable to both inter and intra state operations as stated in the North Dakota Administrative Code 38-04-01-01.

Rear impact guards have been a requirement on motor vehicles since 1952 with some exemptions. This piece of safety equipment, as applied to trucks, trailers and semitrailers, is designed to prevent a smaller vehicle from traveling under and striking the elevated rear of the truck, trailer and semitrailer in the windshield area of the smaller vehicle. This is a safety device designed for the protection of the public and should not be eliminated on any vehicles that currently require this piece of safety equipment. If this bill were to pass and benefit this particular industry, why wouldn't others also request this exemption?

The second reason for our concern regarding this bill is explained in the letter from Mr. Jeffrey Jensen, Division Administrator, North Dakota, Federal Motor Carrier Safety Administration which all of you received.

The Highway Patrol has worked hard to develop and implement a motor carrier safety program. Our personnel inspect over 17,000 commercial motor vehicles and drivers a year, conduct compliance reviews on unsafe carriers, and safety audits on new carriers. This program is essential to ensure that the commercial vehicles operating in and through the state are safe and do not present a danger to our citizens.

As stated in the letter from Mr. Jensen, if this law were to pass, the state would be considered incompatible with the regulation and the Federal Motor Carrier Administration would be justified in withholding our funding. If this were to happen it would be necessary to eliminate one administrator, nine trooper positions, six motor carrier positions, and most likely three safety auditor positions. This is basically our motor carrier safety program. North Dakota would be the only state or territory without a Motor Carrier Safety Assistance Program.

In addition, the Federal Highway Administration issued a letter to me dated October 3, 2006, stating the present size and weight enforcement activity is approaching inadequacy and may not meet the intent of 23 CFR Part 657. Ultimately, Federal Highway may include sanctions against North Dakota Department of Transportation

HB 1359

Submitted by Colonel Bryan Klipfel, NDHP

2/23/07

Page 2

which may include withholding federal aid funds. The nine trooper positions and six motor carrier positions are also involved in size and weight enforcement in conjunction with the safety inspections. The loss of these positions would impact the Highway Patrol's size and weight efforts.

Thank you, Mr. Chairman. I would be happy to answer any questions you have at this time.

FILE: 723.3
(Retained Indefinitely)

1471 Interstate Loop
Bismarck, North Dakota 58503-0567



U.S. Department
of Transportation
**Federal Highway
Administration**

October 3, 2006

Colonel Bryan Klipfel
Superintendent
North Dakota Highway Patrol
Bismarck, North Dakota

Dear Colonel Klipfel:

Subject: North Dakota Size and Weight Enforcement

As you are aware, the issue of size and weight enforcement has been discussed over the past year between FHWA, the North Dakota Department of Transportation (NDDOT) and the North Dakota Highway Patrol. The FHWA Division Office has been monitoring trends and completing analysis of the size and weight enforcement data from the annual certification reports and enforcement plans submitted by the North Dakota Highway Patrol each year. In addition, the FHWA Division Office has also completed analysis of the data being collected from the Weigh-In-Motion (WIM) sensors located throughout the State.

Both, the FHWA North Dakota Division and FHWA Headquarters Offices are particularly concerned with the trends related to the number of vehicles weighed and the percentage of overweight vehicles on North Dakota's highways. In particular, the average monthly growth in truck traffic has increased 2.32 percent or 5,013 vehicles from 2005-2006. During the same time period, the average monthly growth in overweight vehicles has increased 1.64 percent or 2,281 vehicles. Finally, based on the data collected from the WIM sensors, during the first part of 2006, an average of 5 percent of all trucks (7,675) on North Dakota's highways exceed 88,000 pounds on a monthly basis, an increase from 4 percent (5,940) in 2005.

Given the impending and long-term damage to the highway network due to these overweight vehicles, both the FHWA North Dakota Division and FHWA Headquarter Offices have concluded the present size and weight enforcement activity is approaching inadequacy and may not meet the intent of the regulations outlined in 23 CFR Part 657. Since the North Dakota Highway Patrol is the party responsible, by law, for the North Dakota size and weight enforcement program, additional resources must be provided to strengthen the present size and weight enforcement activities in order to ensure a satisfactory size and weight enforcement program is in place and operational. FHWA will continue to monitor the actions and work closely with both the NDDOT and NDHP staffs as they prepare the Fiscal Year 2006/2007 Size and Weight Enforcement Plan and Annual Certification.



Ultimately, if improvements in enforcement activity are not made, FHWA will consider issuing sanctions against NDDOT which may include withholding Federal-aid funds, as described in 23 CFR Part 657.

Both the FHWA Division and Headquarters Offices are available to answer questions and provide technical assistance in regards to this matter. If you have any questions or need additional information, please do not hesitate to contact Mark A. Johnson or myself at (701) 250-4343, ext. 105 and 102, respectively.

Sincerely yours,



Allen R. Radliff, P.E.
Division Administrator

cc: Mr. Grant Levi, Interim Director/Deputy Director for Engineering, NDDOT
Mr. Timothy J. Horner, Director of Transportation Programs, NDDOT
Mr. Doyle Schulz, North Dakota Highway Patrol
Mr. Jeff Jensen, Division Administrator, Federal Motor Carrier Safety Administration,
Bismarck, North Dakota
W.O. (Mr. Mike Onder, HOFM) sent via E-mail
Ms. Christine Johnson, Director of Field Services - West

MAJ/lmw

G:\HOME\WETCH\OFFICE\Johnson\Size and Weight Sanction Letter - MAJ.doc

Car

1-800-GO-BUDGET
www.budget.com

