

2009 HOUSE TRANSPORTATION

HB 1133

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1133

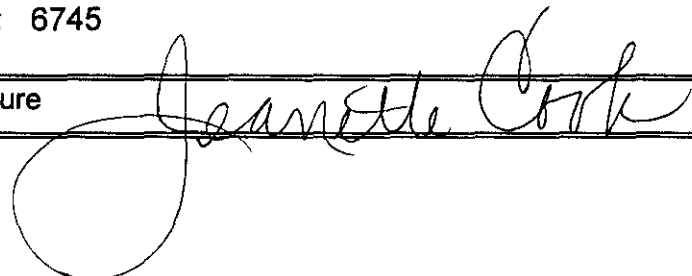
House Transportation Committee

Check here for Conference Committee

Hearing Date: 01/09/2009

Recorder Job Number: 6745

Committee Clerk Signature



Minutes:

The hearing was called to order by **Chairman Ruby** and the clerk read the title.

Linda Butts, Deputy Director for the Driver and Vehicle Services at the North Dakota Department of Transportation, spoke in support of HB 1133. See attachment #1.

Linda Butts: I think the Genesis of the bill is really a customer service issue for the people that we serve. With your permission, we believe that if we get this authority we will be able to offer better customer service.

Linda Butts introduced expert witnesses Rosie Krein, head of Consumer Division, and Jerry Auch, head of Dealer Services.

Representative Vigesaa: On Section 2, if we just put "or transfer", is there any way that will allow someone who is not the owner to transfer a vehicle?

Linda Butts: The way that we have it on our forms, it would say: owner/transferee, buyer/transferee.

Rosie Krein: A transferor does not necessarily have to be the owner of the vehicle. If you are not the owner, the person that is releasing for that owner would be required to submit documentation to justify that they have the authority to do so. In the case of a widow, there

would be a death certificate or personal representative papers that would allow her to sign for the deceased.

Representative Weiler: In Section 1 it says that a vehicle dealer has 30 days from receipt. Is there anything in law now that states they have 30 days? When they sell the vehicle, they have 30 days to get the paperwork back to the citizen. Correct?

Linda Butts: The law right now states that they have 30 days after receipt. But what is occurring sometimes is that maybe the dealer doesn't give out the paperwork, so that 30 days goes into 40 days. So, this would help us put more responsibility and some urgency maybe within the dealer to try to get the paperwork within 30 days.

Representative Weiler: There is nothing in the bill that says that the dealer has to get it to you by a certain number of days, is there?

Jerry Auck: What is required of the dealer has always been that they have to get the paperwork to us in 30 days. But the law said when "they get the **receipt** of the paperwork." Sometimes car dealers may buy cars at auction, and they don't get the title for ten to fifteen days. That could be interpreted that you then have 45 days in which to get it to the Motor Vehicle Department. This is a clarification that this is 30 days for the dealer to get the paperwork to **us**, if they collect the tax, title, and license fees, which are funds for the state. If they do not collect tax, title, and license, they only have 15 days to give the title to the customer, who makes the application for title and license.

Representative Weisz: Does the code have a definition for transferor or is this just a policy definition by the DOT as far as requirements for paperwork?

Linda Butts: It came up in discussion with our legal team. Their opinion was that is defined in another part of the code, and that this should be the same. Would you like that in there?

Representative Weisz: The definition should be part of the Code.

Linda Butts: We will do that.

Representative Thorpe: The case that you mentioned about the widow transferring the vehicle must have said "or" or there wouldn't have been a problem.

Linda Butts: I didn't see the paperwork on that particular situation.

Representative Schmidt: In the joint tenant situation, the current owner must sign as an owner even the deceased, why would we have to have "even in case of deceased"? They are both owners. We don't have to have that wording in here do we?

Jerry Auch: When the title transfer goes through, the title has to be AND in order to have the joint tenant right of survivorship. In all cases we do have to have both signatures to sign off the title. Of course, when the person is deceased, we want proof that the person is deceased, so the death certificate will suffice. Then only one person must sign the title off.

Representative Thorpe: Over the years there have been problems getting death certificates.

Jerry Auch: The solution is to have OR on the title, then either person can sign off. If you would have a tragic event and both parties were deceased, then of course, you would still have to go through the court system to get the bill of sale of a vehicle. If you put OR, that allows either party to sign at any time. I think that most of our titles today are in OR with a husband and wife scenario.

Representative Thorpe: Do you prefer the term AND/OR?

Jerry Auch: Our legal team has said that and/or is not a proper description. You can use AND, you can use the word OR, but you can't have both.

Matthew Larsgaard, spoke in support of HB 1133 on behalf of the **Automobile Dealers Association of North Dakota.** See attached testimony #2.

Representative Weiler: Matt, how often does this happen that an officer pulls someone over for an expired 30 permit? When an officer pulls someone over, and the person says that I

bought it 30 days ago. I don't have my license yet. Does the officer still cite them or give them a fine? Does that happen? Is there a need for this?

Mike Erhardt, North Dakota Highway Patrol: A person can be cited with an expired notary. However, we do have an enforcement policy that provides guidance in that area. We do issue warnings for a 30 day period. Depending on how long the permit has been expired, you are more likely to get a warning. If it is outside the 30 days, there could be a citation that could be issued.

Chairman Ruby: Is there anyone else here to speak in favor of HB 1133?

Lynn Jackson, Director of Vehicle Division: We get a least a call a day from dealers asking us if we can extend the notary on vehicles. We have had our branch offices and counter staff spending a lot of time doing these updates. It is a handwritten process, so it is a time saver for staff and is a convenience for our citizens, if we can have a 45 day notary extension.

Representative Vigesaa, a car dealer, spoke in favor of the bill.

Chairman Ruby: Should the 15 day difference effect budget issues in any way?

Lynn Jackson: There is no budget effect.

Chairman Ruby: Is there anyone else to speak in favor of HB 1133? There being none, is there any opposition?

There was no opposition.

Chairman Ruby: We will close the hearing for HB 1133.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1133

House Transportation Committee

Check here for Conference Committee

Hearing Date: 01/15/09

Recorder Job Number: 7066

Committee Clerk Signature

Jeanette Cook

Minutes:

Chairman Ruby reopened the hearing on HB 1133.

Glen Jackson, North Dakota DOT, addressed the committee to answer the question whether a definition of the term "transferor" is necessary in the bill. See attachment #3.

Representative Griffin: Could you give a scenario where if you put this word in there, things would be different?

Glen Jackson: If someone is the executor of an estate, they don't technically own that vehicle, but they are going to transfer that title to someone who is going to purchase it from the estate. In that case they would be transferring the ownership. That would fit these circumstances. We would have to have the court pick a work in certain documentation to verify that they have the authority to make that transfer.

Representative Griffin: What currently happens?

Glen Jackson: Currently we do exactly that. They have to sign the document as the seller. We have the paperwork that goes through. We just want to change it so that have a "transferor" instead of a "seller".

Representative Griffin: But what overall changes?

Glen Jackson: Nothing, sir.

Representative R. Kelsch: Weren't we told by Linda Butts that this will to put into code what is actually being practiced?

Chairman Ruby: What do you do when there may be more than one person who might have some authority? How do you determine which one has the right to sign?

Glen Jackson: We have to look at the source documents and have a proper document trail so we can make the correct decision.

Representative Weisz: What happens if the transferee doesn't take care of transferring the title?

Glen Jackson: We meet with the individual and have the paperwork accomplished. We will put a lien on the vehicle and no action can take place until this is resolved.

Chairman Ruby: In Section 5 there is a place where it says that this should be done in thirty days or a Class B misdemeanor will apply.

Glen Jackson: That could apply, but we have not enforced that as a misdemeanor that this point.

Chairman Ruby: Representative Weisz, are you satisfied that the question has been answered?

Representative Weisz: Yes.

Representative Weisz moved a **Do Pass** on HB 1133.

Representative Delmore seconded the motion.

A roll call vote was taken. **Yea 14 Nay 0 Absent 0**

Representative Vigesaa will carry HB 1133.

Date: 1-15

Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1133

House TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass Don't Pass Amended

Motion Made By Weiler Seconded By Delmore

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman	✓		Representative Delmore	✓	
Rep. Weiler - Vice Chairman	✓		Representative Griffin	✓	
Representative Frantsvog	✓		Representative Gruchalla	✓	
Representative Heller	✓		Representative Potter	✓	
Representative R. Kelsch	✓		Representative Schmidt	✓	
Representative Sukut	✓		Representative Thorpe	✓	
Representative Vigesaa	✓				
Representative Weisz	✓				

Total Yes 14 No 0

Absent _____

Bill Carrier R.D. Vigesaa

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

REPORT OF STANDING COMMITTEE (410)
January 15, 2009 3:42 p.m.

Module No: HR-08-0399
Carrier: Vigesaa
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1133: Transportation Committee (Rep. Ruby, Chairman) recommends DO PASS
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1133 was placed on the
Eleventh order on the calendar.

2009 SENATE TRANSPORTATION

HB 1133

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1133

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: February 26, 2009

Recorder Job Number: 9755

Committee Clerk Signature

Jody Houze

Minutes:

Senator Lee opened the hearing on HB 1133 relating to certificates of notary showing registration requirements and transfer of title of a vehicle.

Glenn Jackson, Director of the Motor Vehicle Division at the ND Department of Transportation testified in support of HB 1133. Written testimony #1. This bill will extend the valid time for a notary a citizen can use to show evidence of registration fees paid after purchase of a vehicle from 30 days to 45 days; it clarifies language in regards to owner/transferor of a vehicle; and requires the transferee of a vehicle to submit paperwork to the division no later than 30 days from date of transfer.

Senator Nodland said he was in the banking industry all his life and it took forever to get titles.

Will this solve the problem?

Jackson we believe the 45 day notary will reduce the number of trips that citizens have to make back to get another notary. The second part is that this bill attempts to push dealers to get the process going.

Senator Nodland I think the dealers are a big part of this problem.

Jackson thinks this will speed the dealer process up.

Senator Fiebiger in line 12 page 2 you took out "after receipt" and it says within thirty days the transferee shall deliver the endorsed certificate. My question is within thirty days of what?

Jackson said it was thirty days after they receive the title. So you have a transfer and you sold the vehicle and now you got trade-in you have to get the title of that vehicle before you do anything else with it. They have thirty days from the time they get that title in and we are saying thirty days from the time that sale is taking place. It is thirty days from the time that transfer take place.

Senator Nething part of the problem is the dealer will let things stack up instead of sending them in one at a time. They may only do this once a month. This isn't going to deal with that.

Jackson it does deal with it. It gives them thirty days to get that paperwork to us. There is a timeline now.

Senator Marcellais asked if there was any consideration of doing this online.

Jackson yes, we have a strategic plan for 2020.

Senator Lee what good is the 45 days?

Jackson we looked at the reality of the time table and by moving it to 45 days it meets the reality of what we are doing today.

Matthew Larsgaard testified in support of HB 1133. Written testimony #2.

Senator Lee asked who the lean holder is most of the time.

Larsgaard said that in most cases it is the bank.

No opposition

Senator Lee closed the hearing on HB 1133.

Senator Nething moved a Do Pass.

Senator Nodland seconded.

Roll call vote: 6-0-0. Senator Nodland is the carrier.

Date: 2-26-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1133

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Other

Motion Made By Senator Nething Seconded By Senator Nodland

Senator	Yes	No	Senator	Yes	No
Chairman Senator Gary Lee	✓		Senator Tom Fiebiger	✓	
Senator George Nodland	✓		Senator Richard Marcellais	✓	
Senator Dave Nething	✓		Senator Tracy Potter	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Nodland

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

REPORT OF STANDING COMMITTEE

HB 1133: Transportation Committee (Sen. G. Lee, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1133 was placed on the
Fourteenth order on the calendar.

2009 TESTIMONY

HB 1133

Attachment #1

HOUSE TRANSPORTATION COMMITTEE

January 9, 2009

10:30 a.m. Fort Totten Room

**North Dakota Department of Transportation
Linda Butts, Deputy Director Driver and Vehicle Services**

HB1133

Good morning, Mr. Chairman and members of the committee. I'm Linda Butts, Deputy Director for Driver and Vehicle Services at the North Dakota Department of Transportation (NDDOT). Thank you for giving me the opportunity to present information to you today.

The NDDOT pre-filed House Bill 1133 as an agency bill. This bill will extend the valid time of the notary received upon vehicle purchase from 30 days to 45 days; it clarifies language in regards to owner/transferor of a vehicle; and requires the transferee of a vehicle to submit paperwork to the division no later than 30 days from date of transfer.

Section 1. A vehicle dealer has 30 days from receipt of a title to submit paperwork to the division for processing. On average it take the division two weeks to process and mail registration information. If a dealer waits until close to that deadline, it can be approximately 45 days from the vehicle purchase date until the registration information is received by the citizen.

When a vehicle is purchased, the vehicle owner receives a notary that shows evidence of registration fees. This notary expires after 30 days. If the registration has not been completed, the citizen must return to the dealership or to a motor vehicle site to obtain another notary. Extending the valid time of the notary to 45 days would prevent many of these trips for our citizens.

Section 2. In a joint tenant situation, when a vehicle title is transferred, the current owner must sign as owner, even in the case of a deceased loved one. By adding the clarification of owner/transferor, the personal nature of the transfer is changed to the action taken vs. the position held.

In addition, within this section of the bill, language is changed to specify 30 days from transfer of a vehicle to submit paperwork to the division, vs. 30 days from receipt of a previous title. This is to ensure that vehicle sellers are diligent in submitting their paperwork to the division for processing, therefore preventing citizen receipt delays.

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

Attachment # 2

**TESTIMONY
HOUSE BILL 1133
HOUSE TRANSPORTATION
JANUARY 9, 2009**

- Mr. Chairman and members of the committee. My name is Matthew Larsgaard and I am appearing before you today in support of House Bill 1133 on behalf of the Automobile Dealers Association of North Dakota which consists of approximately 100 franchised new car dealers in our state.
- We were contacted by the North Dakota Department of Transportation regarding this bill and are happy to support them in their effort to extend the notary certificate or "drive out sticker" from 30 to 45 days. My following comments will be in regard to section 1.
- In almost every situation when a motor vehicle is purchased from a dealership the customer asks the dealer to complete and submit the application for title, license, and registration. The dealer or their authorized agent will then complete the appropriate documents and issue the customer a 30 day certificate of notary which is attached to the vehicle while the registration procedure is completed.
- In many cases the dealer is unable to immediately submit the registration documents for any number of reasons: 1) it takes several business days for a customer's check to clear 2) the customer may change their mind and want a different vehicle 3) the motor vehicle title may not be available at the time of sale which is usually a result of a lost title, or much more commonly, a title being held by a lien holder.
- Lien holder release of titles can be excruciating at times. Dealers have informed us that some finance companies are extremely slow in releasing titles. They have also stated that getting lien holder titles from Minnesota is very slow. Since dealers are required to submit the title along with the application to the DOT, they need to hold those applications until the title arrives.
- It is not uncommon for dealers to offer vehicles for sale while they wait for titles from lien holders—and often they sell vehicles before the titles arrive. Again, without the title the dealer cannot submit the application to the DOT.
- Within 30 days the dealer must submit the application form, the appropriate motor vehicle excise tax and a copy of the motor vehicle title (or MSO) to the motor vehicle division. However, the DOT needs time to process the application and send the new title, license, and registration to the customer; this may take more than a week to do. At that point in time the customer is driving a vehicle with an expired certificate of notary. If they happen to be pulled over by law enforcement officials the customer may be cited for the expired certificate.
- Mr. Chairman, members of the committee, section 1 simply extends the time allowed to complete the motor vehicle registration process. This benefits the NDDOT, your North Dakota dealerships and the consumers who purchase vehicles in North Dakota.
- Mr. Chairman, this concludes my testimony in support of House Bill 1133. Thank you for the opportunity to testify.

Matthew C. Larsgaard
Automobile Dealers Association of North Dakota

Attachment # 3

Glen Jackson DOT

During testimony on HB1133 on January 9, 2009, we were asked whether a definition of the term "transferor" is necessary in the bill. Under certain scenarios, someone other than the owner may be legally authorized to transfer the title; thus, the DOT proposed amendment. The DOT only transfers title when the transferor is legally authorized to do so. The DOT defines the term accordingly: A transferor is anyone legally authorized to effectuate a transfer. Legal authorization is determined by reviewing proper documentation, such as current title ownership, identification, court documents or other evidence of authority to transfer a vehicle title to a different owner. The DOT is comfortable with not including a definition in the statute. If the issue should arise, the term would be defined according to the dictionary definition ("Transferor - One who makes a legal transfer." See Blacks Law Dictionary, 6th Ed.). Legality is determined on a case by case basis, following the proper document review.

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SENATE TRANSPORTATION COMMITTEE
February 26, 2009, 9:30 a.m.
Lewis & Clark Room

North Dakota Department of Transportation
Glenn Jackson, Director, Drivers License & Traffic Safety Division

HB1133

Good morning, Mr. Chairman and members of the committee. I'm Glenn Jackson, Director of the Drivers License and Traffic Safety Division, very recently the Director of the Motor Vehicle Division at the North Dakota Department of Transportation. Thank you for giving me the opportunity to present information to you today.

The North Dakota Department of Transportation pre-filed House Bill 1133 as an agency bill. This bill will extend the valid time for a notary a citizen can use to show evidence of registration fees paid after purchase of a vehicle from 30 days to 45 days; it clarifies language in regards to owner/transferor of a vehicle; and requires the transferee of a vehicle to submit paperwork to the division no later than 30 days from date of transfer.

Section 1. Currently, a vehicle dealer has 30 days from receipt of a title to submit paperwork to the division for processing. On average it take the division two weeks to process and mail registration information. If a dealer waits until close to that deadline, and with our average two week processing, it can be approximately 45 days from the vehicle purchase date until the registration information is received by the citizen.

Currently, after 30 days, the notary the citizen received upon purchase of the vehicle expires, so they must go back to the dealership or to a motor vehicle counter window to have another notary completed. This change would prevent many of these unnecessary trips for our citizens.

Section 2. This is clarification of the owner/transferor. Under certain scenarios, someone other than the owner may be legally authorized to transfer the title. Examples of this activity are: someone acting as the executor of an estate or someone with a designated power of attorney. A transferor is anyone legally authorized to effectuate a transfer. Legal authorization is determined by reviewing proper documentation, such as identification papers, court documents, or other legal documents as presented. This amendment should eliminate potential confusion in situations in which someone other than the owner of the vehicle is effectuating a transfer.

In addition, within this section of the bill language is changed to specify 30 days from transfer of a vehicle to submit paperwork to the division, vs. 30 days from receipt of a previous title. This is to ensure that vehicle sellers are diligent in getting their paperwork submitted to the division for processing, in order to prevent citizen receipt delays.

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

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**TESTIMONY
HOUSE BILL 1133
SENATE TRANSPORTATION
FEBRUARY 26, 2009**

- Mr. Chairman and members of the committee. My name is Matthew Larsgaard and I am appearing before you today in support of House Bill 1133 on behalf of the Automobile Dealers Association of North Dakota which consists of approximately 100 franchised new car dealers in our state.
- We were contacted by the North Dakota Department of Transportation regarding this bill and are happy to support them in their effort to extend the notary certificate or "drive out sticker" from 30 to 45 days. My following comments will be in regard to section 1.
- In almost every situation when a motor vehicle is purchased from a dealership the customer asks the dealer to complete and submit the application for title, license, and registration. The dealer or their authorized agent will then complete the appropriate documents and issue the customer a 30 day certificate of notary which is attached to the vehicle while the registration procedure is completed.
- In many cases the dealer is unable to immediately submit the registration documents for any number of reasons: 1) it takes several business days for a customer's check to clear 2) the customer may change their mind and want a different vehicle 3) the motor vehicle title may not be available at the time of sale which is usually a result of a lost title, or much more commonly, a title being held by a lien holder.
- Lien holder release of titles can be excruciating at times. Dealers have informed us that some finance companies are extremely slow in releasing titles. They have also stated that getting lien holder titles from Minnesota is very slow. Since dealers are required to submit the title along with the application to the DOT, they need to hold those applications until the title arrives.
- It is not uncommon for dealers to offer vehicles for sale while they wait for titles from lien holders—and often they sell vehicles before the titles arrive. Again, without the title the dealer cannot submit the application to the DOT.
- Within 30 days the dealer must submit the application form, the appropriate motor vehicle excise tax and a copy of the motor vehicle title (or MSO) to the motor vehicle division. However, the DOT needs time to process the application and send the new title, license, and registration to the customer; this may take up to two weeks. At that point in time the customer is driving a vehicle with an expired certificate of notary. If they happen to be pulled over by law enforcement officials the customer may be cited for the expired certificate.
- Mr. Chairman, members of the committee, section 1 simply extends the time allowed to complete the motor vehicle registration process. This benefits the NDDOT, your North Dakota dealerships and the consumers who purchase vehicles in North Dakota.
- Mr. Chairman, this concludes my testimony in support of House Bill 1133. Thank you for the opportunity to testify.

Matthew C. Larsgaard
Automobile Dealers Association of North Dakota