

2009 HOUSE TRANSPORTATION

HB 1438

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1438

House Transportation Committee

Check here for Conference Committee

Hearing Date: 01/29/09

Recorder Job Number: 8190

Committee Clerk Signature

Janette Cook

Minutes:

Representative Dennis Johnson, District 15, introduced HB 1438. He explained that there is a need to be able to get temporary workers a CDL. There are currently about 100 applicants. The way this is now is creating problems for the harvesters. There are amendments added to this bill. Texas, Nebraska, Kansas, and South Dakota have come up with a temporary CDL so that the applicant could take their test without a Social Security number. We have put this bill together so that the DOT said that they could issue the license without the Social Security number. The second part of the bill addresses that fact that many foreign workers are returning more than one year. Then when they come back again, we want to give them the opportunity to pick up their license for a small fee without having to go through the testing process again. The harvesters and the Motor Vehicle Department are comfortable with the way the bill came together.

Representative Delmore: If they don't have a Social Security number, what proof will they have of who they are and their driving records, so that we know that they should be licensed?

Representative Dennis Johnson: The workers have work permits and this will have to coincide with the work permit numbers that allow them to come into the United States.

Representative Gruchalla: The other states that you mentioned, have they formulated a program just like this that allowed them to get a CDL?

Representative Dennis Johnson: Their language addresses what I started out to do here with a temporary CDL. I believe that the Motor Vehicle no longer needs the Social Security number.

Linda Butts, Deputy Director of Driver and Vehicle Services at the North Dakota DOT, spoke I support of HB 1438. See attachment #1. Linda reviewed the amendments.

Representative Delmore: Could we assume that all of these people wouldn't have a passport?

Cindy Worrall, DOT: Every applicant that comes in would have to have a passport and an I-94 card, which is an immigration document that has their work status here in the United States.

Representative Weiler: Is the need to show the passport and I-94 card spelled out in the federal portion?

Cindy Worrall: That is in state statute where they have to provide proof of legal name and date of birth. So, we would have to insure that they are legal to be here, which we do now, if the license would expire the same time that their valid duration stay is in (inaudible).

Chairman Ruby: Is the \$20 fee adequate?

Cindy Worrall: Yes.

Chairman Ruby: Are the people normally in the county more than a year?

Cindy Worrall: Normally, it runs about eight months for that work visa.

Chairman Ruby: If they come back two months later, do they have to go through all the testing process again?

Cindy Worrall: Currently, and is also in the amendment, if they come back and it hasn't been more than one year past the expiration date, then they can get the license back.

There was no further support for HB 1438 and the hearing was closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1438

House Transportation Committee

Check here for Conference Committee

Hearing Date: 01/29/09

Recorder Job Number: 8192

Committee Clerk Signature

Janette Cook

Minutes:

Chairman Ruby asked that the committee take into consideration HB 1438 with the amendment as provided.

Representative R. Kelsch moved the amendment on HB 1438.

Representative Griffin seconded the motion.

A voice vote was taken. All were in favor, and the motion passed.

Representative R. Kelsch moved a **Do Pass** as amended on HB 1438.

Representative Gruchalla seconded the motion.

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

The motion passed.

Representative Vigesaa will carry HB 1438.

FISCAL NOTE
Requested by Legislative Council
03/05/2009

Amendment to: Engrossed
 HB 1438

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

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$2,000		\$2,000
Expenditures				\$6,624		\$0
Appropriations				\$6,624		\$0

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

This bill would allow for a non-resident to obtain a temporary non-resident commercial license for a fee of \$20.00.

This bill has been amended twice. However, the amendments have no impact on the original fiscal note.

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

Section 2, Paragraph 1 allows for the DOT to issue a temporary non-resident commercial license for a fee of \$20.00. This will require software modifications to input and print the licenses.

This bill has been amended twice. However, the amendments have no impact on the original fiscal note.

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

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

An estimated 100 temporary non-resident commercial licenses would be issued each year generating \$2,000 in revenue.

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

\$6,624.00 - Programming cost for the creation of a new card type and fee capability added to the license, renewal and financial screens. New card designs will be required from L1 Technologies but will have no fiscal impact per contract amendment 1 dated 7/29/2005 of the Digital Driver Licensing System contract.
82 hrs ITD Programming = \$5,904.00, 10 hrs DOT IT Staff hrs = \$720.00

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

Appropriations for the software modifications would be needed as outlined in the expenditures section 3B.

Name:	Glenn Jackson	Agency:	NDDOT
Phone Number:	328-4792	Date Prepared:	03/05/2009

FISCAL NOTE
Requested by Legislative Council
02/02/2009

Amendment to: HB 1438

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

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

Appropriations for the software modifications would be needed as outlined in the expenditures section 3B.

Name:	Glenn Jackson	Agency:	NDDOT
Phone Number:	328-4792	Date Prepared:	02/03/2009

FISCAL NOTE
Requested by Legislative Council
01/16/2009

Bill/Resolution No.: HB 1438

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

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

Section 2, Paragraph 1 allows for the DOT to issue a temporary non-resident commercial license for a fee of \$20.00. This will require software modifications to input and print the licenses.

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Appropriations for the software modifications would be needed as outlined in the expenditures section 3B.

Name:	Glenn Jackson	Agency:	NDDOT
Phone Number:	328-4792	Date Prepared:	01/20/2009

VR
1/30/09
106

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1438

Page 1, line 2, remove "temporary"

Page 1, line 3, replace "section" with "sections 39-06.2-02," and after "39-06.2-08" insert ", and 39-06.2-09"

Page 1, line 4, after "a" insert "nonresident"

Page 1, after line 5, insert:

"SECTION 1. AMENDMENT. Section 39-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-02. Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.
2. "Alcohol concentration" means:
 - a. The number of grams of alcohol per one hundred milliliters of blood;
 - b. The number of grams of alcohol per two hundred ten liters of breath; or
 - c. The number of grams of alcohol per sixty-seven milliliters of urine.
3. "Commercial driver's instruction permit" means a permit issued under subsection 4 of section 39-06.2-07.
4. "Commercial driver's license" means a license issued under this chapter which authorizes an individual to drive a class of commercial motor vehicle.
5. "Commercial driver's license information system" means the information system established under the Commercial Motor Vehicle Safety Act to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.
6. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property:
 - a. If the gross combination weight rating is twenty-six thousand one pounds [11794 kilograms] or more provided the towed unit has a gross vehicle weight rating of more than ten thousand pounds [4536 kilograms];
 - b. If the vehicle has a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms] or such lesser rating as determined by federal regulation;
 - c. If the vehicle is designed to transport sixteen or more passengers, including the driver; or

- d. If the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 CFR part 172, subpart F.
- 7. "Controlled substance" means any substance so classified under section 802(6) of the Controlled Substances Act [21 U.S.C. 802(6)], and includes all substances listed on schedules I through V, of 21 CFR part 1308, as they may be revised from time to time.
- 8. "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
- 9. "Disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle.
- 10. "Drive" means to drive, operate, or be in physical control of a motor vehicle.
- 11. "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license.
- 12. "Driver's license" means a license issued by a state to an individual which authorizes the individual to drive a motor vehicle.
- 13. "Drug" means any drug or substance or combination of drugs or substances which renders a person incapable of safely driving, and includes any controlled substance.
- 14. "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.
- 15. "Fatality" means the death of a person as a result of a motor vehicle accident.
- 16. "Felony" means any offense under state or federal law which is punishable by death or imprisonment for a term exceeding one year.
- 17. "Foreign jurisdiction" means any jurisdiction other than a state of the United States.
- 18. "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination (articulated) vehicle. The gross vehicle weight rating of a combination (articulated) vehicle (commonly referred to as the "gross combination weight rating") is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating or actual weight of the towed unit or units.
- 19. "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.
- 20. "Imminent hazard" means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may

occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.

- 21. "Motor vehicle" means every vehicle that is self-propelled, and every vehicle that is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheelchairs.
- 22. "Noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles not defined by the term commercial motor vehicle.
- 23. "Nonresident commercial driver's license" means a commercial driver's license issued by a state to an individual domiciled in a foreign country meeting the requirements of 49 CFR 383.23(b)(1).
- ~~24.~~ 25. "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.
- ~~24.~~ 25. "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:
 - a. Excessive speeding, involving a single charge of any speed fifteen miles [24.14 kilometers] per hour or more, above the posted speed limit;
 - b. Reckless driving, as defined under section 39-08-03 or local ordinance, including charges of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property, improper or erratic traffic lane changes, or following the vehicle ahead too closely;
 - c. A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident;
 - d. Driving a commercial motor vehicle without obtaining a commercial driver's license;
 - e. Driving a commercial motor vehicle without a commercial driver's license in the driver's possession. An individual who provides proof to the enforcement authority that issued the citation, by the date the individual must appear in court or pay a fine for such violation, that the individual held a valid commercial driver's license on the date the citation was issued, is not guilty of this offense; or
 - f. Driving a commercial motor vehicle without the proper class of commercial driver's license or endorsement, or both, for the specific vehicle group being operated or for the passengers or type of cargo being transported.

~~26.~~ 26. "State" means a state of the United States or the District of Columbia.

~~26.~~ 27. "United States" means the fifty states and the District of Columbia."

Page 1, line 16, remove "temporary"

Page 2, after line 10, insert:

"SECTION 3. AMENDMENT. Section 39-06.2-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-09. Commercial driver's license.

1. ~~Content of license.~~ The commercial driver's license must be marked "commercial driver's license", and must be, to the maximum extent practicable, tamper proof. It must include the following information:
 - a. The name and residential address of the person;
 - b. The person's color photograph;
 - c. A physical description of the person, including sex, height, weight, and eye and hair color;
 - d. Date of birth;
 - e. A distinguishing number assigned to the person which upon request may be a number different from the person's social security number;
 - f. The person's signature;
 - g. The class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restrictions;
 - h. The name of this state; and
 - i. The dates between which the license is valid.

2. The director may issue a nonresident commercial driver's license pursuant to the limitations of 49 CFR 383 including waiving the social security number requirement. The face of the license must be marked "nonresident" in accordance with 49 CFR 383.153(b).

3. ~~Classifications, endorsements, and restrictions.~~ Commercial driver's licenses may be issued with the following classifications, endorsements, and restrictions; the holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles. Vehicles for which an endorsement is required may not be driven unless the proper endorsement appears on the license. The requirements of placarding vehicles transporting hazardous materials under subparagraph b of paragraph 3 of subdivision a and the endorsement required under paragraph 1 of subdivision b do not apply to a person who is the operator of a farm vehicle, provided such vehicle is controlled and operated by a farmer and used to transport hazardous materials in the form of farm supplies within one hundred fifty miles [241.40 kilometers] of the farm, and not used in the operations of a common or contract carrier.
 - a. Classifications:
 - (1) Class A. Any combination of vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], provided the gross vehicle weight rating of the vehicles being towed is in excess of ten thousand pounds [4535.92 kilograms].

- (2) Class B. Any single vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], and any such vehicle towing a vehicle not in excess of ten thousand pounds [4535.92 kilograms].
- (3) Class C. Any single vehicle with a gross vehicle weight rating of twenty-six thousand pounds [11793.40 kilograms] or less or any such vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand pounds [4535.92 kilograms] comprising:
 - (a) Vehicles designed to transport sixteen or more passengers, including the driver; and
 - (b) Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 CFR part 172, subpart F.

b. Endorsements and restrictions:

- (1) "H" - authorizes the driver to drive a vehicle transporting hazardous materials.
- (2) "T" - authorizes driving double and triple trailers.
- (3) "P" - authorizes driving vehicles carrying passengers.
- (4) "N" - authorizes driving tank vehicles.
- (5) "X" - combinations of tank vehicles and hazardous material vehicles.
- (6) "S" - authorizes driving a schoolbus.

Other restrictions may be placed upon a commercial driver's license, as provided in section 39-06-17. The applicant shall pay a fee of three dollars for each endorsement.

- ~~3.~~ 4. ~~Applicant record check.~~ Before issuing a commercial driver's license, the director shall obtain driving record information through the commercial driver's license information system, the national driver's register, and from each state in which the person has been licensed.
- ~~4.~~ 5. ~~Notification of license issuance.~~ Within ten days after issuing a commercial driver's license, the director shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the person.
- ~~5.~~ 6. ~~Expiration of license.~~ A commercial driver's license issued under this chapter expires in the manner provided for operator's licenses under section 39-06-19.
- ~~6.~~ 7. ~~License renewal procedures.~~ Every person applying for renewal of a commercial driver's license must complete the application form required by subsection 1 of section 39-06.2-08, providing updated information and required certifications. If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed."

Page 2, line 13, replace "Temporary nonresident" with "Nonresident"

Page 2, line 14, remove "temporary"

Page 2, line 17, replace "may not be" with "is valid only during the period of time of the applicant's authorized stay in the United States. The license may be renewed only upon presentation of valid documentary evidence that the status has been extended"

Page 2, remove lines 18 through 22

Page 2, line 23, remove "department, the department shall issue a nonresident commercial license"

Page 2, line 26, remove "The department may not issue more than one temporary nonresident commercial"

Page 2, remove line 27

Page 2, line 28, remove "3." and remove "temporary"

Renumber accordingly

Date: 1-29-09

Voice Vote
Roll Call Vote #- 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1438

House TRANSPORTATION Amendment Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass Don't Pass Amended

Motion Made By Kelsch Seconded By Griffin

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 Vigasaa					
Representative Weisz					

Total Yes _____ No _____

Absent _____

Bill Carrier _____

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

Date: 1-29-09

Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1438

House TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass Don't Pass Amended

Motion Made By Kelsch Seconded By Gruchalla

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 0

Bill Carrier Vigesaa

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

REPORT OF STANDING COMMITTEE

HB 1438: Transportation Committee (Rep. Ruby, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1438 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "temporary"

Page 1, line 3, replace "section" with "sections 39-06.2-02," and after "39-06.2-08" insert ", and 39-06.2-09"

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 - d. If the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 CFR part 172, subpart F.
7. "Controlled substance" means any substance so classified under section 802(6) of the Controlled Substances Act [21 U.S.C. 802(6)], and includes all substances listed on schedules I through V, of 21 CFR part 1308, as they may be revised from time to time.
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 14. "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.
 15. "Fatality" means the death of a person as a result of a motor vehicle accident.
 16. "Felony" means any offense under state or federal law which is punishable by death or imprisonment for a term exceeding one year.
 17. "Foreign jurisdiction" means any jurisdiction other than a state of the United States.
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19. "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.
20. "Imminent hazard" means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.
21. "Motor vehicle" means every vehicle that is self-propelled, and every vehicle that is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheelchairs.
22. "Noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles not defined by the term commercial motor vehicle.
23. "Nonresident commercial driver's license" means a commercial driver's license issued by a state to an individual domiciled in a foreign country meeting the requirements of 49 CFR 383.23(b)(1).
- ~~24.~~ 25. "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.
25. "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:
 - a. Excessive speeding, involving a single charge of any speed fifteen miles [24.14 kilometers] per hour or more, above the posted speed limit;
 - b. Reckless driving, as defined under section 39-08-03 or local ordinance, including charges of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property, improper or erratic traffic lane changes, or following the vehicle ahead too closely;
 - c. A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident;
 - d. Driving a commercial motor vehicle without obtaining a commercial driver's license;
 - e. Driving a commercial motor vehicle without a commercial driver's license in the driver's possession. An individual who provides proof to the enforcement authority that issued the citation, by the date the individual must appear in court or pay a fine for such violation, that the individual held a valid commercial driver's license on the date the citation was issued, is not guilty of this offense; or
 - f. Driving a commercial motor vehicle without the proper class of commercial driver's license or endorsement, or both, for the specific

vehicle group being operated or for the passengers or type of cargo being transported.

25- 26. "State" means a state of the United States or the District of Columbia.

26- 27. "United States" means the fifty states and the District of Columbia."

Page 1, line 16, remove "temporary"

Page 2, after line 10, insert:

"SECTION 3. AMENDMENT. Section 39-06.2-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-09. Commercial driver's license.

1. ~~Content of license.~~ The commercial driver's license must be marked "commercial driver's license", and must be, to the maximum extent practicable, tamper proof. It must include the following information:
 - a. The name and residential address of the person;
 - b. The person's color photograph;
 - c. A physical description of the person, including sex, height, weight, and eye and hair color;
 - d. Date of birth;
 - e. A distinguishing number assigned to the person which upon request may be a number different from the person's social security number;
 - f. The person's signature;
 - g. The class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restrictions;
 - h. The name of this state; and
 - i. The dates between which the license is valid.
2. The director may issue a nonresident commercial driver's license pursuant to the limitations of 49 CFR 383 including waiving the social security number requirement. The face of the license must be marked "nonresident" in accordance with 49 CFR 383.153(b).
3. Classifications, endorsements, and restrictions. Commercial driver's licenses may be issued with the following classifications, endorsements, and restrictions; the holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles. Vehicles for which an endorsement is required may not be driven unless the proper endorsement appears on the license. The requirements of placarding vehicles transporting hazardous materials under subparagraph b of paragraph 3 of subdivision a and the endorsement required under paragraph 1 of subdivision b do not apply to a person who is the operator

of a farm vehicle, provided such vehicle is controlled and operated by a farmer and used to transport hazardous materials in the form of farm supplies within one hundred fifty miles [241.40 kilometers] of the farm, and not used in the operations of a common or contract carrier.

a. Classifications:

- (1) Class A. Any combination of vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], provided the gross vehicle weight rating of the vehicles being towed is in excess of ten thousand pounds [4535.92 kilograms].
- (2) Class B. Any single vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], and any such vehicle towing a vehicle not in excess of ten thousand pounds [4535.92 kilograms].
- (3) Class C. Any single vehicle with a gross vehicle weight rating of twenty-six thousand pounds [11793.40 kilograms] or less or any such vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand pounds [4535.92 kilograms] comprising:
 - (a) Vehicles designed to transport sixteen or more passengers, including the driver; and
 - (b) Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 CFR part 172, subpart F.

b. Endorsements and restrictions:

- (1) "H" - authorizes the driver to drive a vehicle transporting hazardous materials.
- (2) "T" - authorizes driving double and triple trailers.
- (3) "P" - authorizes driving vehicles carrying passengers.
- (4) "N" - authorizes driving tank vehicles.
- (5) "X" - combinations of tank vehicles and hazardous material vehicles.
- (6) "S" - authorizes driving a schoolbus.

Other restrictions may be placed upon a commercial driver's license, as provided in section 39-06-17. The applicant shall pay a fee of three dollars for each endorsement.

- 3- 4. ~~Applicant record check.~~ Before issuing a commercial driver's license, the director shall obtain driving record information through the commercial driver's license information system, the national driver's register, and from each state in which the person has been licensed.

- 4- ~~5.~~ ~~Notification of license issuance.~~ Within ten days after issuing a commercial driver's license, the director shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the person.
- 5- ~~6.~~ ~~Expiration of license.~~ A commercial driver's license issued under this chapter expires in the manner provided for operator's licenses under section 39-06-19.
- 6- ~~7.~~ ~~License renewal procedures.~~ Every person applying for renewal of a commercial driver's license must complete the application form required by subsection 1 of section 39-06.2-08, providing updated information and required certifications. If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed."

Page 2, line 13, replace "**Temporary nonresident**" with "**Nonresident**"

Page 2, line 14, remove "temporary"

Page 2, line 17, replace "may not be" with "is valid only during the period of time of the applicant's authorized stay in the United States. The license may be renewed only upon presentation of valid documentary evidence that the status has been extended"

Page 2, remove lines 18 through 22

Page 2, line 23, remove "department, the department shall issue a nonresident commercial license"

Page 2, line 26, remove "The department may not issue more than one temporary nonresident commercial"

Page 2, remove line 27

Page 2, line 28, remove "3." and remove "temporary"

Re-number accordingly

2009 SENATE TRANSPORTATION

HB 1438

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. Engrossed HB 1438

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: February 27, 2009

Recorder Job Number: 9858

Committee Clerk Signature

Jody Hauge

Minutes:

Chairman Lee opened the hearing on HB 1438 relating to a non resident commercial driver's license; relating to an application for a nonresident commercial driver's license.

Representative Dennis Johnson introduced the bill and an emergency amendment to the bill. He said the bill deals with applications for nonresident commercial driver's license and the concern is the commercial drivers that come in from foreign countries particularly for the custom harvest crews. When these foreign drivers come over, there is a time crunch to get license that are legal and to get them to Texas or Oklahoma to start harvesting. The process in the past is that we need their social security number before they can get a driver's license. This causes delays and problems. What he tried to do with this bill is get a temporary driver's license without a social security number. The other part of the bill they wanted to change is at the end of the season they can turn their driver's license in and next summer when they come over if they are within one year they can get the CDL reissued to them without going through the whole testing process. The emergency clause is so we could utilize this provision this coming spring for the workers coming over.

Senator Nodland asked if this was mainly relates to custom combiners going out of state.

Rep. Johnson said that is what he is most familiar with. It seems it is the ones that come over for the harvest that are in the time crunch.

Senator Nodland asked why they didn't get a CDL like everyone else.

Rep. Johnson said these are the work force that come from South Africa, Australia, and New Zealand, Denmark etc. to help with the harvest. They have to do their license in the base state where they come to be employed. He said these folks have to have the same CDL to operate on the roads driving these trucks. It is a time issue.

Senator Lee asked if there could be others moved into this group other than the combine groups.

Rep. Johnson said he really wouldn't know if there would be any other groups but maybe the Department of Transportation could answer that. I am just familiar with the custom harvesters.

Senator Lee said it would be non Canadian and non Mexican because he thought they had a reciprocal agreement.

Rep. Johnson said the Department of Transportation would be able to answer that too.

Senator Nething asked why a custom combiner would need this kind of license.

Rep. Johnson gave the history on CDL license.

Linda Butts, Deputy Director for Driver and Vehicle Services at the ND Department of Transportation testified in support of Engrossed HB 1438 with amendments. Written testimony #2.

Senator Nodland asked if they would have this CDL and if they went from custom harvesting to the oil field will that CDL work for that.

Linda answered yes, they would have the same competency requirements, same testing,

same vision, and road tests, everything required for a regular CDL. The differences are that

they don't need their social security number to give the license to them and they will someday leave this country and the license will expire.

Senator Nething when the license is issued is there a time of its effectiveness.

Syndi Worrel, ND Department of Transportation explained the non-resident CDL (15:43). She said when they apply for this they will have to have proof of name and date of birth, the documents required are their immigration papers. They cannot have a license for longer than they can be in this country. The non-resident CDL would not be restricted to just custom harvest purposes only it is a CDL.

Senator Lee asked if they don't have a SS number in the system how the Department of Transportation references them.

Syndi we obtain a group of pseudo SS numbers from American Association of Motor Vehicle Administrators, so applicants would have their specific number. That is the number that will be put in the system. SD issues a non-resident CDL and they also work through the American Association of Motor Vehicle Administrators for the list of numbers.

Senator Nodland asked if other states were doing this.

Syndi replied that Kansas and SD are doing it and ND would be the third. It is patterned somewhat after them but this bill makes it even more efficient and user friendly by not requiring the SS number. Federal legislation exempts the SS requirement all together and that is how this bill is patterned.

Senator Potter thought the FN was high.

No Opposition

Senator Lee closed the hearing on Engrossed HB 1438.

Senator Nething moved the amendment.

Senator Fiebiger seconded.

Roll call vote: 5-0-1

Senator Nething moved a Do Pass as amended and rerefer to Appropriations.

Senator Fiebiger seconded.

Roll call vote: 5-0-1

Senator Fiebiger will carry the bill.

1

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1438

Page 1, line 4, after "license" insert "; and to declare an emergency"

Page 8, after line 24, insert:

"SECTION 5. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 2-27-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1438 Engrossed

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number Amendment

Action Taken Do Pass Do Not Pass Other
amendment

Motion Made By Senator Nething Seconded By Senator Fiebiger

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) 5 No 0

Absent 1

Floor Assignment _____

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

REPORT OF STANDING COMMITTEE

HB 1438, as engrossed: Transportation Committee (Sen. G. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1438 was placed on the Sixth order on the calendar.

Page 1, line 2, remove the first "and"

Page 1, line 4, after "license" insert "; and to declare an emergency"

Page 8, after line 24, insert:

"SECTION 5. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2009 SENATE APPROPRIATIONS

HB 1438

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1438

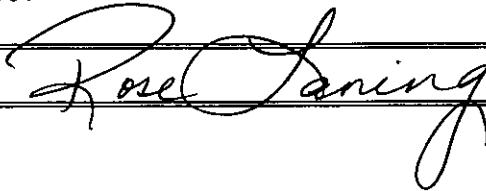
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: March 13, 2009

Recorder Job Number: 10897

Committee Clerk Signature



Minutes:

Chairman Holmberg called the committee hearing to order on HB 1438 relating to a nonresident commercial driver's license (CDL).

Rep. Dennis Johnson, District 15

This bill was introduced to address the custom harvesters with non-resident help here in the summer time. We need a Social Security Number and more for the folks to apply for a CDL license. We went through the committee as far as policy, and it all came together. The timeline is really why we need the bill because these folks come over in the spring to start harvesting. We're really pushed on time to get their license and start working. We're looking at maybe one hundred applicants at \$5/person and that generates \$2000. The people at the Department of Transportation felt that they needed \$6000 to implement the program and provide the services. That's the fiscal note. This is an excellent tool for the guys that need licenses.

Chairman Holmberg: Is there any requirement in this bill that these folks are legal residents of the United States, or here legally because if I was someone who snuck across the border, I would be a resident of a foreign jurisdiction, which could be Mexico or Guatemala, and then they would issue them that license?

Rep. Johnson: This is addressed in the policy. They have to have their Visa, their work permit and all proper documentation. When they go back home at the end of the season in the United States, they turn in that CDL that they acquired here and it all times out with the court permits for being here. When they come back the following year, they can get that license back again, because it's on file, without going through the testing procedure again and taking up DOT's time, the harvester's time and their time.

Chairman Holmberg: This 49 CFR in the bill, is this a federal regulation?

Rep. Johnson: I believe it is.

Kent Braathen, Board of Directors Member, US Custom Harvesters

We are an organization of about 300 custom harvesters across the United States and are made up of silage harvesters, combine, and small grain harvesters. My past experience with the social security number issue with this driver's license; we try to get the health care and South Africa is where we get our help from. They go through the consulate in South Africa and have their passports and work visas in order. Everyone is legal. It takes 3-4 weeks to get the Social Security number. The way the driver's license works now is that you need to have that number in hand before you can start the testing process. But those 3-4 weeks gets us out to where we need to be in Texas harvesting. Sometimes we have to leave them behind because they haven't been able to get their license in time and that leaves us short of help to start the season. It's more expense to get back down to Texas. This change would simplify the process. They still need to get their Social Security number to be in the country in order for us to issue their 1099s to them. This would help the beekeepers and farmers who use the H2A visas. It's not just the custom harvesters alone.

Senator Fischer: Is the H2A visa specific to South Africa?

Kent Braathen: Yes, that's an agricultural visa.

Senator Krebsbach: Are you acquainted with what other states are doing in this area?

Kent Braathen: Yes. South Dakota has already eliminated the Social Security number for the license, and also Nebraska, Kansas and Texas.

Tom Balzer, North Dakota Motor Carriers Association

Testified in favor of HB 1438. No written testimony.

The Association doesn't have a problem with the bill. The folks from South Africa have the exact same requirements as the Motor Carriers do; drug testing, random drug testing, background checks.

Linda Butts, Deputy Director of Driver and Vehicle Services, North Dakota Department of Transportation – testified in favor of HB1438. Written attached testimony # 1.

The department is in support of this bill and has been working with Rep. Johnson to draft this piece of legislation so that it would be in compliance with the federal rules and regulations.

This bill will allow or enable North Dakota to enact something that the federal government has already authorized and is allowing states to do. We will probably be the third, fourth or fifth state that will allow this. The testing and requirements would be the same for all CDL drivers. There are only two major differences. These folks would not have to have a social security number for the license, and then when they leave the country, we would take back the North Dakota license, probably shred it, and if they come back within one year, they don't have to be retested. We can simply give them their license once again and they can become productive employees.

Senator Krauter: Are you ready for a motion?

Chairman Holmberg: Even though the folks from Grand Forks are not from my district, we will take a motion.

Senator Krauter moved Do Pass.

Senator Krebsbach seconded.

Senator Christmann: Is this the right amount to charge? How much should be a user fee and how much should be covered by the taxpayers.

Senator Warner: What is the price of a normal CDL?

Chairman Holmberg: Kent, can you tell us the price of a normal CDL license?

Kent Braathen: When you look at the \$2000, it probably wouldn't pay for it the first year, but over a three year period, the \$6000 would be covered.

Senator Christmann: These are two year budget cycles, so it's actually \$6000.

A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 1

The bill goes back to the Transportation Committee and Senator Fiebiger will carry the bill.

Date: 3-13-09

Roll Call Vote # 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1438

Senate Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen. Krauter Seconded By Sen. Krebsbach

Senators	Yes	No	Senators	Yes	No
Sen. Ray Holmberg, Ch	✓		Sen. Tim Mathern	✓	
Sen. Tony S. Grindberg, VCh	✓		Sen. Aaron Krauter	✓	
Sen. Bill Bowman, VCh	✓		Sen. Larry J. Robinson	✓	
Sen. Randel Christmann	✓		Sen. John Warner	✓	
Sen. Rich Wardner	✓		Sen. Elroy N. Lindaas A		
Sen. Ralph L. Kilzer	✓		Sen. Tom Seymour	✓	
Sen. Tom Fischer	✓				
Sen. Karen K. Krebsbach	✓				

Total Yes 13 No 0

Absent 1

Floor Assignment back to Transportation Committee Fisher

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

REPORT OF STANDING COMMITTEE (410)
March 13, 2009 12:02 p.m.

Module No: SR-46-4798
Carrier: Flebiger
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1438, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1438, as amended, was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1438

Attachment # 1

*Same given
to Senate
Appropriations 3/13/09*

HOUSE TRANSPORTATION COMMITTEE

January 29, 2009

2:00 p.m. Fort Totten Room

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

HB 1438

Good afternoon, 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. Thank you for giving me the opportunity to present information to you today.

The North Dakota Department of Transportation supports this bill. The federal commercial driver's license regulations permit states to issue non-resident commercial driver's licenses to individuals domiciled in a foreign country. These are individuals who reside temporarily in North Dakota on immigration work visas, generally in the custom harvesting or agricultural business. This federal regulation, if adopted by a state, allows the issuance of this particular license without requiring a social security number. The federal regulations allow this to accommodate drivers from foreign jurisdictions who do not have a social security number.

As with all applicants, documentation to prove name and date of birth is required and the knowledge, vision, and road tests must be passed. Documentation in this case consists of the foreign passport and appropriate immigration document. The difference in the application and issuance process for a non-resident commercial driver's license is the social security number requirement and length of validity. It is valid only during the period of time of the applicant's authorized stay in the United States. The front of the license must also state "Non-resident Commercial Driver's License".

We have worked with Rep. Johnson on these amendments so that we can the issue a nonresident commercial driver's license and yet stay in compliance with the federal commercial driver's license regulations.

North Dakota Department of Transportation supports this bill with amendments.

*Same given to
Senate Transportation
2-27-09*