2011 HOUSE TRANSPORTATION

HB 1207

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

HB 1207
01/20/2011
Job # 13153 and 13154

☐ Conference Committee

Committee Clerk Signature Jeanette Cook

Explanation or reason for introduction of bill/resolution:

This is a bill relating certain number plates for driving while under the influence.

Minutes: Attachments #1 and #2

Sean M. Johnson, a private citizen, introduced and presented testimony supporting HB 1207. See attachment #1.

Representative Delmore: How many other states besides Minnesota have these plates?

Sean M. Johnson: I don't have the figures on how many.

Representative Delmore: You quoted statistics, could there be anything else that possibly might make a difference in Minnesota?

Sean M. Johnson: Obviously there could be, but I know that their DWI laws are a lot tougher than ours are. They hold their people a lot more accountable when it comes to DUIs. In absence of that, since I am not aware of any bills that strengthen our laws any further, I think that a law that provides a preventative action that might help save a life is invaluable. In the bill there is an extra charge that could be put in place to help pay for the "whiskey" plates. The Department of Transportation expects the cost of this program to be $3500.

Representative Delmore: You talk about public safety, when I am driving I don't usually look at the plates of other drivers. I am curious to know how you think this will be a public safety factor. Do you think we acclimate ourselves to look for a particular plate?

Johnson: In Minnesota they start with a W. The plate itself will stand out, and it is not like any other plate that they issue in the state of Minnesota. That is what I would hope the Department of Transportation will do if this passes; not only add the W, but make it a special color.

Representative Weisz: The bill has no expiration date. Was it your intent that the recipient would have to have this plate for the rest of their life, or would there be a time period that clears them?

Sean M. Johnson: Yes, the way it is written now, they would have to have it as long as they choose to operate a vehicle. It is a privilege to drive, not a right. We already do have laws on the books that penalize people for a lifetime for things that they have done. Driving impaired is an extreme lapse of judgment and deserves the level of punishment that this outlines.

Representative Weisz: I don't disagree with the statement about driving impaired, but in Minnesota is it for life?

Sean M. Johnson: In my research it doesn't look like there is a sunset.

Vice Chairman Weiler: If someone from North Dakota got a DUI and moved to Minnesota later, does Minnesota make them get a "W" plate?

Sean M. Johnson: I believe that there is a compact between 44 states regarding driver's licenses. If someone moves and chooses to get a license in Minnesota, Minnesota would put that in place.

Representative Frantsvog: How many plates would you expect to have out now if your law was in place for the last three years?

Sean M. Johnson: I don't have that information in front of me I feel comfortable in telling you that most offenders don't quit after the first time. They need that incentive to quit. Our law enforcement, as well as the common public, need to who they are. Then they can avoid them or stop them before they hurt someone.

Representative Gruchalla: I am aware that these plates do have some impact. I was wondering if you would be opposed to adding a "look back period", so that the plates would be removed after five to seven years. Then if a person did not have another DUI in 5-7 years, they would have the plate removed.

Sean M. Johnson: My primary concern is to get this law on the books. It will give law enforcement and the common citizen the tools that we need. If that means that we look at it with a "look back period" only, I think that could work, with the additional addiction treatment and evaluations that are already mandated by law.

Chairman Ruby: Are you proposing that the person would get their own plate back with a W stamped on it or a whole new plate. What about the spouse that may have to drive that vehicle?

Sean M. Johnson: The intent is that they would get a special plate.

Chairman Ruby: So, would that track to any other vehicle that they would buy? Also, if they have a spouse that drives that vehicle, and they drive it, they would be identified?

Sean M. Johnson: I understand that concern, but at the end of the day, I feel that that is part of the lesson. Your decision may have consequences on people that they may not have intended them to.

Chairman Ruby: I know it is a different plate, but are you aware of how many plates may already have a W as a first letter?

Sean M. Johnson: That is why I would propose a different plate altogether, along with the W.

There was no further support for HB 1207.

There was no opposition on HB 1207.

Linda Sitz, Director of Motor Vehicle Division at the North Dakota Department of Transportation presented written neutral testimony and answered questions about HB 1207. See attachment #2.

Representative Delmore: Are we taking into account that a family may have five vehicles? Would they all have the W plates? They may have teenage children who drive one of those vehicles or a spouse. Anyone who drives one of these vehicles would be marked in that way, even though they weren't irresponsible drivers.

Linda Sitz: The bill is not clear on the intent.

Representative Delmore: If that 128 figure that actually should have the W, have several vehicles under their names, wouldn't all of their vehicles have to have the special plate if they are going to drive them?

Linda Sitz: If that is how the bill is going to be written, that is the language of the law that we will follow. It depends on the intent of the bill. If it is not written, then we don't have any direction.

Chairman Ruby: I think the way it is written, it would be only the plates that are impounded. When someone gets a DUI, are the plates taken for all of their vehicles or only the vehicle that they were driving at the time of the offense?

Linda Sitz: It is only the vehicle that they were driving at the time of the offense.

Representative Owens: Couldn't we just use the distinctive number plate program that we have and just put a big red W over the space that we have for organizational emblems? Then it wouldn't affect the other plates with Ws.

Linda Sitz: Currently, when our HP call in a plate number, they basically give us an idea if it is a Lewis and Clark plate. They don't look at the color of the letters on the plate. So, I am not sure how this would work. We would have to do some sort of advertisement with the law enforcement to add clarification with that idea.

There was no further neutral testimony on HB 1207.

The hearing on HB 1207 was closed.

(The recording was turned off to repair the sound in the system and started again on a new recording. Note: two job numbers on the top of page.)

Vice Chairman Weiler moved a DO NOT PASS on HB 1207.

Representative Heller seconded the motion.

Representative Delmore: I don't like the idea of multiple vehicles, especially with underage kids. For the most part those people are trying to get well. They have an illness. I don't like singling them out. I can't believe that there won't be more of cost than the Department of Transportation is saying because it is going to be a separate plate.

Representative R. Kelsch: In Minnesota they confiscate all license plates. So, it would be my guess, that even if it doesn't say it on here, it will be ALL license plates owned by that individual. I think this is just the beginning.

Chairman Ruby: We have had similar problems before because it affects the other vehicles and all the other drivers. There will be conflicts with other plates that already have Ws on them. I see a lot more problems with this than advantages.

Representative Weisz: I will be voting for this since it is my constituent. The intent is good. I have never noticed one of those plates in Minnesota. His intent is good and I support it. I have very little tolerance for drunk drivers.

Representative Sukut: The other side of this is that it is a life sentence also. I don't think that fits in a lot of instances.

Representative Gruchalla: One of the statistics that he quoted was a 47% drop in the last ten years of repeat offenders. That is the period in which they instituted the plate. That is a pretty good drop. As far as I know there is no other bill this session that deals with the DUI problem that continues to be about 50% of our traffic fatalities every year in North Dakota. I feel a single individual needs more backing, but the concept is good. I will work, and it does work. If you are in law enforcement and see a W plate, it gets a little extra attention. Both the law officer and the driver know that.

Representative Weisz: I would assume that the plate does have a deterrent factor. I don't know if it is much use to the general public because they don't see it. I don't feel that is a sound argument. But, I would have to agree that if you do have one DUI, knowing that the next one will give you a "Scarlet Letter" on your plate, it would get your attention, more so than a $1000 fine or lose my license.

Representative Owens: Many of you have mentioned this, and I appreciate Mr. Johnson bringing this bill. There is nothing more that I would like to do than get more DUIs off the

road because we do have so many alcohol related fatalities in this state. But, I am concerned about the other people in the family, making a one-time mistake and paying the rest of your life, and then every state trooper in the state would profile everyone. I have many concerns, even though I don't think it is a terrible idea.

A roll call vote was taken for a DO NOT PASS on HB 1207.

Aye 11 Nay 3 Absent 0

The motion carried.

Representative Heller will carry HB 1207.

FISCAL NOTE

Requested by Legislative Council
01/11/2011

Bill/Resolution No.: HB 1207

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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).*

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.*

This bill will have very minor fiscal impacts. We estimate the impact to be less than $3,500 for either revenues or expenditures.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

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

   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.*

Name:	Shannon L. Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	01/19/2011

Date: 1-20-11

Roll Call Vote #: _____

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1207

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Weiler Seconded By Heller

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby	X		Representative Delmore	X	
Vice Chairman Weiler	X		Representative Gruchalla		X
Representative Frantsvog	X		Representative Hogan		X
Representative Heller	X		Representative Onstad	X	
Representative R. Kelsch	X				
Representative Louser	X				
Representative Owens	X				
Representative Sukut	X				
Representative Vigesaa	X				
Representative Weisz		X			

Total (Yes) 11 No 3

Absent Ø

Floor Assignment Heller

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

REPORT OF STANDING COMMITTEE

HB 1207: Transportation Committee (Rep. Ruby, Chairman) recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1207 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HB 1207

#1

TESTIMONY OF SEAN M. JOHNSON, PRIVATE CITIZEN

HB 1207 "WHISKEY PLATE" BILL

Good morning Representative Ruby and members of the House Transportation Committee. My name is Sean Johnson, and I worked with Representative DeKrey on the drafting of HB 1207, or what I like to refer to as the Whiskey Plate bill.

I am just an average guy with an interest in our political process. I don't represent any agency or interest group today when I testify in support of the Whiskey Plate bill. I took leave from work to be here. I am simply availing myself of the most open state legislative process in America, and I am thankful for that process as it gives the average guy like myself an opportunity to try and help do something about the problems facing our state, or in short, take part of the responsibility for the solution. I would also like to think I represent the tens of thousands of law abiding drivers on our roadways who, despite the best efforts of our law enforcement community, take to the road each day with a gnawing concern that any one of the other drivers sharing those roadways could be driving impaired. I am lucky so far in that I have not been involved in an accident with an impaired driver, not lost anyone close to me because of one. Others unfortunately have not been so lucky, and it is also them I hope I represent today.

To say we have a serious problem with impaired driving; despite our laws, awareness campaigns, treatment programs, and tireless efforts of our law enforcement community, is an understatement. I won't roll out a wave of statistics this morning to back that up as I am sure you are all aware this is true, and also feel as I do that North Dakota can do better. I have always been a believer that when faced with a problem, people are either disposed to fixing blame or fixing the problem. Doing the former is the easy way out; the latter takes courage, conviction, and hard work. I believe the latter is also why many of you choose to run for office.

In short, I personally feel our DUI laws have not yet caught up with the problem. There simply is not the correct balance of crime to consequence at this time. The simple fact that it takes a fifth offense in five to seven years before a felony is even considered is proof of this imbalance. Even then, it is only a Class C Felony. I am realistic enough to know that it will take time to rebalance the crime to consequence equation as it relates to DUI, but there are easy steps we can take now that may help save lives and perhaps provide the incentive not to get a DUI in the first place.

One such step is a Whiskey Plate, as presented to you in HB 1207. In short, if made law, convicted impaired drivers will be required to display a special license plate after the impoundment period ends which makes drivers around them and the law enforcement community aware that a driver has a demonstrated history of impaired driving. Since plate impoundment does not come into play until the second offense, our system already allows for learning from the first mistake, and a "second chance", as the special plates won't be considered until a driver demonstrates they have that history of impaired driving. Whiskey plates will allow law abiding drivers to drive more defensively on the road,

and help them help the law enforcement community through increased vigilance of a whiskey plate driver's operation of their vehicle. It will also help our law enforcement officers increase their situational awareness of drivers on the road, and hopefully prevent an impaired driving accident before it happens.

Last, it is my hope such a plate will provide an extra special incentive to convicted DUI offenders to not become a repeat customer of our court system, and more importantly, endanger the innocent. Everyone on the road will know what they have done before; they can no longer remain anonymous in traffic until it is too late. They know they will be watched closer, and have a greater possibility of being stopped.

As you are aware, **driving in our state is a privilege and not a right**, and if they don't want a Whiskey Plate they have a choice.... Don't drink and drive (the preferred choice), or don't operate a vehicle. It's that simple.

The whiskey plate idea is not new. Minnesota has them. I grew up there and will be the first to say that replicating what Minnesota does is not always a good thing. But, in this instance they got it right. From 1999-2009, their alcohol related driving fatalities per 100,000 population are a NEGATIVE 41.7; this is the same timeframe in which their Whiskey Plate law went into effect. North Dakota's are at a positive 8.0. I promise that will be my only statistic

In close, I ask for a do pass recommendation of HB1207 so that law abiding drivers can drive more defensively, our law enforcement community has a better chance at stopping a repeat offender before they kill somebody, and the offenders receive the extra motivation necessary to right their ways. I have no sympathy for them, and neither should this legislative assembly.

#2

HOUSE TRANSPORTATION COMMITTEE
Date: January 20th – 9:00 a.m. – Fort Totten

North Dakota Department of Transportation
Linda Sitz, Director, Motor Vehicle Division

HB 1207

Mr. Chairman and members of the committee. I'm Linda Sitz, 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.

House Bill 1207 will introduce another plate series to Motor Vehicle. Currently Motor Vehicle has 360 different license plate types.

This law would require Motor Vehicle to issue a "W" marked plate for a citizen who had their plates impounded for a violation of NDCC section 39-08-01 or the Driving Under the Influence (DUI) laws. As we read the bill, this plate would be issued at the end of their suspension period and when their driving privileges had been restored. The law is silent as to how long this citizen would be required to have this plate on their vehicle. Rough Rider states the minimum roll amount they can order for aluminum on this type of plate would be 200 yards which makes 600 pair of plates at a current estimated cost of $4,290.00.

A query of our system indicates we have about 1,660 vehicles that currently start with a "W" as does our entire snowmobile series of 20,000 plates and thus would identify this group with DUI activity. Do we give these people a chance to change their plate? If so, who bears this cost?

For these reasons, Motor Vehicle has concerns over the conflicted use of the "W" as an avenue to mark DUI activity.

We also queried our system to see how many citizens would currently qualify for a DUI related "W" plate and we found 128.

This bill gives this committee the opportunity to determine if this is an appropriate use and policy to apply to our state license plate.

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