2011 HOUSE TRANSPORTATION

HB 1381

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

HB 1381
02/04/2011
Job # 14040

☐ Conference Committee

Committee Clerk Signature Jeanette Cook

Explanation or reason for introduction of bill/resolution:

HB 1381 is a bill relating to the penalty for driving on a closed road, in a construction zone, and in a school zone; and to provide a penalty.

Minutes: Attachment #1 and 2

Representative Gruchalla, District 45 in Fargo, spoke in support of HB 1381 and provided written testimony. See attachment #1 and #2. He stated that doing an interim study of Section 39, the traffic code and thinks that would be a good idea. The traffic code has not been overhauled in about forty years. Many of the penalties are archaic.

Vice Chairman Weiler: On page 2 line 11, "knowingly entering a closed road", how will it be determined if the driver knowingly entered a closed road?

Representative Gruchalla: That is standard right now. If someone goes off of an exit ramp and there is not barricade there, there is no way that they can know. If there is a barricade, and they go around it, then they know. Being this is a misdemeanor, there could be a trial and it would be up to the judge.

Chairman Ruby: Some of the existing language is being changed on page 10, it talks about the ability to close the road, and it does say, " no person while operating a motor vehicle, may knowingly enter a road closed under this section." It is already in law as a violation, correct?

Representative Gruchalla: Correct.

Chairman Ruby: That is not being added to code, it just beefs up the penalty for it?

Representative Gruchalla: Yes, it changes it from a $20 ticket to an infraction.

Chairman Ruby: The points that you are bumping are substantial increases.

Representative Gruchalla: Yes, they are, and they should be. There was quite a bit of input for this bill. I know there are other bills that deal with closed roadways. Traveling on a closed roadway is serious thing, putting six points on it makes sense.

Representative Frantsvog: How many points are on a driver's license?

Representative Gruchalla: You start with no points, and if you accumulate twelve points you go under suspension.

Francis Ziegler, Director of Department of Transportation, spoke in support to HB 1381. He stated that the department does not know what the policy should be, but what they do know is that the policy that we do have today *is not working.* He discussed the New Year's storm, and the number of people that were out on the roadways when the roads were closed. The workers could not go home and rest during the storm because they were busy rescuing people that weren't supposed to be on the roads. Then, it was very difficult to get the roads opened, when the department had to clear out all the cars before they could start to clean the roads. The Department of Transportation supports whatever the House and Senate are working on to make this issue better for our employees. The Department of Transportation stays neutral on the penalty.

Representative R. Kelsch: Is the Senate bill just a penalty for going around the gates?

Francis Ziegler: Yes, the Senate bill just addresses the penalty. It is $100 and two points, and then it was amended to go to $250. That bill has not come out of committee.

Representative R. Kelsch: Does it just cover the snow gate issue?

Francis Ziegler: Yes.

Representative Delmore: In the situation that you discussed earlier, how many of the driver's would have been charged with an infraction if this bill were in place?

Francis Ziegler: There were sixty-six drivers that were cited on the interstate that had gone around the gate.

Representative Onstad: This bill also deals with construction zones. What comments do you have about the speed limits in construction zones, and do you have any statistics about that issue?

Francis Ziegler: I have been with the Department of Transportation for forty years and spend a lot of time in construction. One of the scariest things is to be standing out on the highway and have your hard hat pulled off of your head by a semi. You know what kind of a draw that is when it actually pulls your body toward the semi. We are very supportive of anything that can be done to slow down the traffic and to impose a penalty on people that don't slow down. Currently there is an $80 fine for speeding in a construction zone.

Representative Onstad: When we doubled the fine, did we see any benefit to that?

Francis Ziegler: Yes, we saw an immediate change when we went to the eighty dollar fine. There are still those that still want to fly by. It is very dangerous.

Representative Hogan: Could you also comment on the school zone issue?

Francis Ziegler: Anything that could be done to slow people down in those areas is very critical. In Bismarck I was on a PTO that we talked about that. There are children that dart out between cars. Whatever penalty that this body feels necessary for a school zones, we certainly support that.

There was no further support for HB 1381.
There was no opposition on HB 1381.
The hearing was closed on HB 1381.

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

HB 1381
02/11/2011
Job # 14428

☐ Conference Committee

Committee Clerk Signature Jeanette Cook

Minutes:

Chairman Ruby brought HB 1381 before the committee.

Representative Gruchalla reviewed the bill. It is an attempt to categorize the major safety violations that we have. It is a safety bill that addresses these three sections of law: closed roads, construction zones, and school zones. It puts the penalty into an infraction status, so the person would probably have to go to court. The judge could set the penalty from $0 to $500. This is similar to Minnesota's law.

Representative Delmore: Why include construction zones when we already passed a bill for that with a substantial fine? I do believe we need to look at the other two.

Representative Gruchalla: The Department of Transportation will tell you that there is still a danger in the construction zones.

Representative R. Kelsch: What is the status of the bill in the Senate for going around a closed gate?

Chairman Ruby: It passed.

Representative R. Kelsch: Do you know what was in that?

Chairman Ruby: $100 for being on a road that is closed. It is $250 if you went around a gate. It does not have recovery of cost.

Representative Louser: If a city doubled this fine, could it be $1000?

Chairman Ruby: If it says infraction, it couldn't be more than the dollar amount listed. It can't go to a class C misdemeanor.

Chairman Ruby: Are there any point increases in this bill?

Representative Gruchalla: The points are addressed in the bill. It goes to six points for these violations.

Chairman Ruby: Six, nine, twelve, and fifteen points, and knowingly entering a closed road is six points.

Representative Onstad moved a DO PASS on HB 1381.
Representative Hogan seconded the motion.
A roll call vote was taken. Aye 7 Nay 7 Absent 0 (Vote sheet #1)
The vote was tied.

Representative R. Kelsch moved a DO NOT PASS on HB 1381.

Representative R. Kelsch: I do not think that we have a major issue in the school zones. We have taken care of the construction zones. I do think that the closed roads are being taken care of in another piece of legislation, so we will get an opportunity to see that.

Representative Weisz seconded the motion.

Chairman Ruby: I do think that we need to address the snow gate issue. It is important that there is another bill. I don't have a problem being tough in constructions and school zones, so I voted yes on the first vote. This is a big step up and may give us some trouble on the floor.

Representative Owens: I don't disagree with heavier fines in school zones, construction zones, and we certainly need to do something about going around the barriers. I personally do think the reimbursement of costs should be part of that. It is the point structure in here that I don't like. I would support this if we take that out. If we raise it up to an infraction, and then raise the points, we are hitting them twice. I would rather hit them in the pocketbook. The points really don't hurt them that much. People usually don't think of points as being detrimental until they lose their license.

Representative Gruchalla: (spoke without mic, inaudible) .... If we just do the points on the barricades and leave the points the same on the construction and school zone, we would be just changing from the fine to an infraction.

Chairman Ruby: Would you still be considering six points for running around a gate?

Representative Gruchalla: Anything would be better than none. If we changed it to 3 points, would it be more saleable?

Chairman Ruby: We have a motion on the table, unless the motion is withdrawn.

Representative R. Kelsch withdrew her motion.
Representative Weisz withdrew the second. (Vote sheet #2)

Representative Gruchalla clarified the amendments.

Representative Vigesaa: I need clarification on page 5. If we take out line 20-25, I'm not sure that is correct. Maybe we just need to take out the language that is new, line 22-25 except for the word or.

Chairman Ruby: Correct.

Representative Gruchalla moved the amendments.
Representative Onstad seconded the amendments.
A voice vote was taken. The motion carried. (Voice Sheet # 3)

Representative R. Kelsch asked for a clarification on page 1 lines 9-10. Was it the intent to take away the administrative hearing process, so that any of these violations would automatically have to go to court? There will not be able to have a hearing?

Representative Gruchalla: I'm not sure. There are other infractions in the code now in traffic. With those infractions you are able to have a hearing. I don't think that would change.

Representative R. Kelsch: It says, "may not be utilized" and that is administrative hearing. Then you are adding into that on page 2 lines 4-7, now you are saying that "you would no longer be afforded a chance for an administrative hearing, if you knowingly enter a closed road, or are in excess of 20 mph in a school zone or a construction zone." You would automatically have to go to court.

Representative Gruchalla asked Mr. Jackson if an infraction in the code now does not have the right to appeal.

Glenn Jackson: As I understand it, the items that are listed here are specifically exempted from the administrative hearing process. By adding them into this area, it will prevent them from being heard through the administrative process.

Chairman Ruby: That is problematic.

Representative Weisz moved a DO NOT PASS as amended on HB 1381.
Representative Heller seconded the motion.

A roll call vote was taken. Aye 10 Nay 4 Absent 0
The motion carried.
Representative Weisz will carry HB 1381.

Date: 2-11-11

Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1381

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 Onstad Seconded By Hogan

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) 7 No 7

Absent _____

Floor Assignment _____

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

Date: 2-11-11

Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1381

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 R.A. Kelsch Seconded By R. Weisz

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

Withdrawn

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

11.0615.01001
Title.02000

Adopted by the Transportation Committee

February 14, 2011

VR
2/14/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1381

Page 1, line 1, after "to" insert "create and enact a new paragraph to subdivision b of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to demerit points for driving on a closed road; to"

Page 1, line 2, replace the first "section" with "and sections"

Page 1, line 2, remove "subsection 3 of section 39-06.1-10, and sections"

Page 1, line 2, after "39-09-02" insert a comma

Page 3, remove lines 7 through 29

Page 4, remove lines 1 through 30

Page 5, remove lines 1 through 31

Page 6, remove lines 1 through 30

Page 7, remove lines 1 through 31

Page 8, replace lines 1 through 15 with:

"**SECTION 4.** A new paragraph to subdivision b of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

Knowingly entering a closed road in violation of section 39-10-21.1"	3 points

Renumber accordingly

Date: 2-11-11

Roll Call Vote #: 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1381

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 Gruchalla Seconded By Onstad

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

Voice Vote Passed

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2-11-11

Roll Call Vote #: 4

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1381

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 Weisz 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) 10 No 4

Absent 0

Floor Assignment Weisz

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

REPORT OF STANDING COMMITTEE

HB 1381: Transportation Committee (Rep. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1381 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new paragraph to subdivision b of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to demerit points for driving on a closed road; to"

Page 1, line 2, replace the first "section" with "and sections"

Page 1, line 2, remove "subsection 3 of section 39-06.1-10, and sections"

Page 1, line 2, after "39-09-02" insert a comma

Page 3, remove lines 7 through 29

Page 4, remove lines 1 through 30

Page 5, remove lines 1 through 31

Page 6, remove lines 1 through 30

Page 7, remove lines 1 through 31

Page 8, replace lines 1 through 15 with:

"**SECTION 4.** A new paragraph to subdivision b of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

Knowingly entering a closed road in violation of section 39-10-21.1"	3 points

Renumber accordingly

2011 TESTIMONY

HB 1381

#1

HB1381

House Transportation Committee

Rep. Ed Gruchalla Dist. 45 Fargo

This bill seeks to address some of the most egregious Traffic Violations that are occurring in North Dakota.

Speeding in Construction Zones places workers and Emergency personnel at risk. There have been several people killed and injured in these Zones while only doing their jobs.

Speeding in School Zones places our children at risk, thus the special School Zone markings.

However, many drivers do not heed these requirements.

Driving around barricades on closed roadways places not only the driver at risk but also those workers that may be clearing a roadway or those who may have to perform a rescue.

These three violations need steeper penalties. This bill accomplishes this by making speeding 20mph in a School or Construction Zone and knowingly driving on a closed roadway an infraction ($0-$500). There will also a point increase.

By making these violations infractions it will be up to a Judge to adjust the fine level.

Placing stiffer fines on these violations will send a message to the motoring public that we treat these violations seriously.

There are several other inequities in the State Traffic Code that should be adjusted. I have learned that there is little support to doing a blanket raise of all fines.

However, if we only want to address the most hazardous violations, this bill is a good start.

HB 1381
#2

Penalties by Classification of Offense

12.1-32-01. Classification of offenses - Penalties. Offenses are divided into seven classes, which are denominated and subject to maximum penalties, as follows:

1. **Class AA felony** - maximum - life imprisonment without parole
   The court must designate whether the life imprisonment sentence imposed is with or without an opportunity for parole.

2. **Class A felony** – maximum - 20 years, a fine of $10,000, or both.

3. **Class B felony** – maximum - 10 years, a fine of $10,000, or both.

4. **Class C felony** – maximum - 5 years, a fine of $5,000, or both.

5. **Class A misdemeanor** – maximum – 1 year, a fine of $2,000, or both.

6. **Class B misdemeanor** - maximum - 30 days, a fine of $1,000 or both.

7. **Infraction** – maximum $500 fine.