

2013 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1196

2013 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee Peace Garden Room, State Capitol

HB 1196
January 21, 2013
Job 17474

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Issuance of insurance policies in foreign languages

Minutes:

Attached testimony #1

Hearing opened

Pat Ward, State Farm Insurance: Brief summary of bill. Refer to written testimony #1.

Representative Ruby: (3:38) Could the insurance companies not provide documents in a different language on their own without this bill?

Pat Ward: (40:19) The law in North Dakota which is incorporated by reference in the bill is 26.1-30-19 & 20 & 21.

30-19 provides that no insurance policy contract agreement or rate schedule may be issued or delivered in the state until the form of that policy contract agreement or rate has been filled with and approved by the commissioner. There is a question of whether we could do that without first getting approval. We would still have the same issues about whether it is a certified translation. The purpose of this bill is to provide clarity in the process.

Representative Kasper: Who provides payment for the interpreters in the insurance department to translate 6-10 languages of the bills you are going to file?

Pat Ward: (5:21) That is why the department asked us to put the requirement in that we would certify that it is a true and accurate translation. If we provide a policy or endorsement in Spanish, etc. we would also provide an English language copy. If there is a dispute, and it needs to be resolved by the Insurance Department or by one of the courts, the English language version would control. Under the Unfair Claims Practices Act, if someone said we were falsifying these translations, that would have to be done in a court of law.

Representative Kasper: Do people in North Dakota have to be able to pass a driver's license test to be drivers in our state, and is that in English?

Pat Ward: Yes it is. An insurance policy may be more difficult to understand than the questions on a driver's license exam.

Representative Kasper: How many insurance agents in North Dakota know how to speak Spanish?

Pat Ward: I don't know.

Representative Kasper: What if you issue a policy in Spanish. Who will explain the policy to the insured if the agent can't speak Spanish?

Pat Ward: (7:20) I imagine they would bring along someone who would translate. It does give them the opportunity to look at it first in their own language.

Representative Kreun: (8:07) There is no requirement that the state is responsible for interpreting?

Pat Ward: That is correct.

Chairman Keiser: (8:25) The company will develop the language in the foreign language that is supposed to be the same as English. If there comes a point that there is a significant disagreement in what it says in English, then we recognize the language differently than what we thought even though it is certified, would there still be recourse?

Pat Ward: The English version would control the dispute. They would have recourse under the Prohibited Practices Act if it is a falsification--if that certified translation is that this was a falsification of what the English language version says.

Representative Kasper: (9:57) We have anti-discriminatory laws. We have five or more Indian tribes in North Dakota. In Fargo and other parts of the state we have multiple languages and multiple dialects. How are the insurance companies going to address it when they issue contracts in Spanish and others say you are discriminating because the policy is not available in the language that the individual wants? There are 30 some languages spoken in Fargo in the school system.

Pat Ward: I think this bill protects us in that regard in that this is totally optional. We don't have to provide these policies in other languages.

Representative Kasper: So you are willing to face discriminatory lawsuits?

Pat Ward: State Farm asked me to put this in. I imagine they considered that possibility.

Support: No other

Opposition: None

Neutral: None

Hearing closed

Representative Kasper: Moved **Do not pass**

Representative Kreun: Seconded it.

Representative Kasper: (11:52) To me this is a bill looking for a problem that doesn't exist. It opens all kinds of other problems. I'd say 99.9% of the insurance agents in North Dakota speak only English. They can issue in other languages without legislation. It is a Pandora's Box we don't need.

Representative Ruby: (12:46) I disagree with Representative Kasper. If you have a company that picks the most common languages, the agent can pull out a file and have the customer can read it in their own language. This is enabling legislation which saves the step of getting approval from the Insurance Commissioner.

Representative Kasper: (14:03) The other side of the story is the insurance agent. As an agent I purchase ENO insurance and I speak English. If I sold a policy to a Spanish speaking person, and they claim that I did not properly explain it, I will be sued. I hope you vote "Do Not Pass."

Representative Kreun: (14:50) If it's 100% voluntary, does that hold us liable?

Representative Kasper: (15:07) It is 100% voluntary on the insurance company. I don't know what they are going to do. We need to study this for a couple of years.

A Roll Call vote was taken on Do Not Pass Motion:
Yes 5, No 9, Absent 1. (Rep. Boschee)

Motion to **Do Not Pass** fails.

Representative Vigesaa: Motion to **Do Pass**

Representative Frantsvog: Seconded the motion

Representative Kasper: The same argument persists on this motion. I wish the Insurance Department would have gotten more involved.

A Roll Call vote was taken on Do Pass Motion:
Yes 10, No 4, Absent 1. (Rep. Boschee)

Motion to **Do Pass** carries.

Representative Kreun is the Carrier

Date: 1-21-2013

Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1196**

House Industry, Business, and Labor Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider Consent Calendar

Motion Made By Kasper Seconded By Kreun

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser		✓	Rep. Bill Amerman	✓	
Vice Chairman Gary Sukut	✓		Rep. Joshua Boschee		
Rep. Thomas Beadle		✓	Rep. Edmund Gruchalla	✓	
Rep. Rick Becker	✓		Rep. Marvin Nelson		✓
Rep. Robert Frantsvog		✓			
Rep. Nancy Johnson		✓			
Rep. Jim Kasper	✓				
Rep. Curtiss Kreun		✓			
Rep. Scott Louser		✓			
Rep. Dan Ruby		✓			
Rep. Don Vigasaa		✓			

Total Yes 5 No 9

Absent 1

Floor Assignment _____

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

Date: 1-21-2013

Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1196**

House Industry, Business, and Labor Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider Consent Calendar

Motion Made By Vigessk Seconded By Frantsvog

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser	✓		Rep. Bill Amerman		✓
Vice Chairman Gary Sukut		✓	Rep. Joshua Boschee		
Rep. Thomas Beadle	✓		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker		✓	Rep. Marvin Nelson	✓	
Rep. Robert Frantsvog	✓				
Rep. Nancy Johnson	✓				
Rep. Jim Kasper		✓			
Rep. Curtiss Kreun	✓				
Rep. Scott Louser	✓				
Rep. Dan Ruby	✓				
Rep. Don Vigesaa	✓				

Total Yes 10 No 4

Absent 1

Floor Assignment Kreun

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

REPORT OF STANDING COMMITTEE

HB 1196: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (10 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING).
HB 1196 was placed on the Eleventh order on the calendar.

2013 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1196

2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

HB 1196
March 12, 2013
Job Number 19752

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to issuance of insurance policies of foreign languages

Minutes:

Testimony Attached

Chairman Klein: Opened the hearing.

Representative Keiser: Introduced and explained the bill. (:10-3:01)

Chairman Klein: Said that the companies would be certifying that's the proper language?

Representative Keiser: Said that was correct.

Senator Andrist: Asked if they were to presume with the late date of 2015 that it was to give insurance companies time to comply with it.

Representative Keiser: Said absolutely they have to get them filed and approved.

Pat Ward, State Farm Insurance: Written Testimony Attached (1).

Discussion and questions (7:19-11:22)

Opposition

Representative Kasper: He is testifying on his own behalf as a licensed insurance agent in North Dakota. He has a lot of problems with the bill and feels it is a self-serving bill. It was testified that State Farm wants to use this as a marketing tool for their insurance companies. What about the other insurance companies that don't have the capabilities or desire to do this. They would be giving one insurance company a competitive advantage. You may argue that the others would be able to do it as well but they may not have the desire of the funds to do this. (12:00-15:39)

Discussion and questions (15:45-19:45)

Senate Industry, Business and Labor Committee

HB 1196

March 12, 2013

Page 2

Rebecca Ternes, Deputy Insurance Commissioner at the Insurance Department: Said that they can see advantages and disadvantages to this bill. (20:45-23:56)

Discussion about the problems there could be for the agents and needing certification that the language being used on the forms is accurate. (23:58-34:40)

Pat Ward: Said in response to a couple things; Representative Kasper's concern about this not protecting agents, he would have no problem with the insertion of, or agents, in line seven. Many of these are standard form policies. There is no intention to deceive anyone with these translations. (34:50-37)

Discussion and questions (37:10-40)

Vice Chairman Laffen: Closed the hearing.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

HB 1196
March 19, 2013
Job Number 20164

Conference Committee

Committee Clerk Signature

Sam Leibel

Explanation or reason for introduction of bill/resolution:

Relating to issuance of policies of foreign languages

Minutes:

Discussion and Vote

Chairman Klein: Opened the discussion.

Senator Sinner: Moved to adopt the amendment, 13.0388.02001.

Senator Laffen: Seconded the motion.

Roll Call Vote: Yes - 7 No - 0 Absent - 0

Discussion

Senator Laffen: Moved a do not pass as amended.

Senator Unruh: Seconded the motion.

Roll Call Vote: Yes - 4 No - 3

Floor Assignment: Senator Laffen

13.0388.02001
Title.03000

Prepared by the Legislative Council staff for
Senator Klein

March 12, 2013



Handwritten signature and date: 3/19/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1196

Page 1, line 7, after "carrier" insert "or producer"

Renumber accordingly

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1196**

Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0388.02001

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Sinner Seconded By Senator Laffen

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag	x				
Senator Unruh	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment

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

**2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1196**

Senate Industry, Business, and Labor 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 Senator Laffen Seconded By Senator Unruh

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy		x
Vice Chairman Laffen	x		Senator Sinner		x
Senator Andrist	x				
Senator Sorvaag		x			
Senator Unruh	x				

Total (Yes) 4 No 3

Absent 0

Floor Assignment Senator Laffen

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

REPORT OF STANDING COMMITTEE

HB 1196: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1196 was placed on the Sixth order on the calendar.

Page 1, line 7, after "carrier" insert "or producer"

Renumber accordingly

2013 TESTIMONY

HB 1196

#1
1-21-13

TESTIMONY OF PATRICK J. WARD IN SUPPORT OF HB 1196

January 21, 2013 House IBL committee

Good afternoon Chairman Keiser and members of the House IBL committee. My name is Pat Ward and I represent State Farm Insurance Companies in support of this bill:

On behalf of State Farm, I would like to thank Representatives Keiser, Frantsvog, Ruby, Vigesaa, and Senators Andrist and O'Connell for introducing this important legislation at my request.

House Bill 1196 authorizes insurance carriers to provide customers with documentation, such as policies and endorsements, in languages other than English. Of course, the English-language versions would always be provided and would control at all levels of dispute resolution. There are a few important points I want to make:

- Non-English documents are intended for convenience to the customer only. This legislation does not require insurers to provide documents in a foreign language under any circumstances – it is 100% optional for insurance carriers to do as a convenience to customers.
- That said, this would provide a major convenience to customers. Buying insurance is one the most important financial decisions an individual or family can make, and providing information to consumers in their primary language is a service that would help customers fully understand their benefits.

- This legislation would also benefit North Dakotans whose primary language is English, in that the legislation supports and supplements North Dakota law requiring all drivers to carry auto insurance. Providing insurance documents in non-English languages can make that obligation easier to understand and comply with. This benefits all drivers.
- Very importantly, the legislation provides that the English-language version of the document is primary and controls any and all dispute resolution. This preserves contract interpretation laws that have been established by the courts, the legislature and the Department of Insurance.
- We worked with the Department of Insurance on drafting this legislation, and at the Department's request, we have also incorporated a requirement that the non-English documents be filed with the Department, along with a written certification declaring that the non-English documents are an accurate translation of the benefits provided. This is a sensible request and makes things easier for the Department.
- Consumers would also be protected by standards in existing unfair trade practices laws, which would preclude insurers from knowingly misrepresenting the content of materials in a language other than English.
- With the oil boom work opportunities and rapid growth all over North Dakota, this legislation provides a way to help make sure new drivers in North Dakota are adequately insured with the coverages that they need as North Dakota has one of the fastest growing Hispanic populations in the USA..

- Many states have adopted similar legislation [IL and GA are examples], and many other states are considering such legislation this session.
- We urge a Do Pass on HB 1196. Thank you for your time and I will try to answer any question you may have.

TESTIMONY OF PATRICK WARD IN SUPPORT OF HB 1196

Senate IBL Committee March 12, 2013

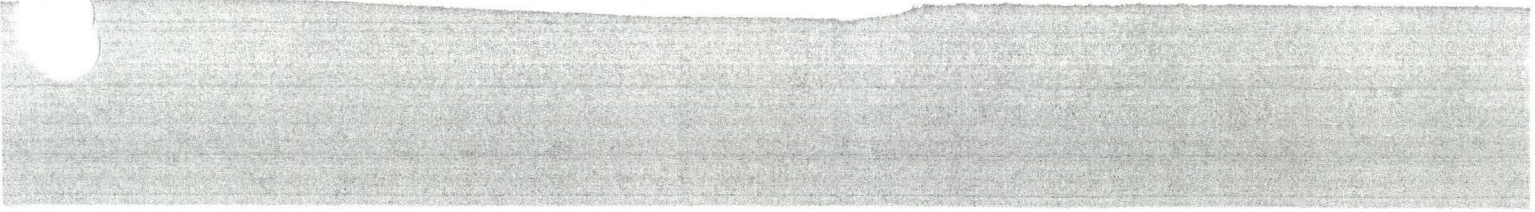
Good Morning Chairman Klein and members of the Senate IBL committee.

My name is Pat Ward. I represent State Farm in support of this bill which would allow for use by insurance companies of foreign language copies of insurance policies as a convenience to customers. On behalf of State Farm, I would like to thank Representatives Keiser, Frantsvog, Ruby, Vigesaa, and Senators Andrist and O'Connell for introducing this legislation at my request.

House Bill 1196 authorizes insurance carriers to provide customers with documentation, such as policies and endorsements, in languages other than English. Of course, *the English-language versions would always be provided and would control at all levels of dispute resolution.* There are a few important points I want to make:

- Non-English documents are intended *for convenience to the customer* only. This legislation **does not require** insurers to provide documents in a foreign language under any circumstances – it is 100% optional for insurance carriers to do as a convenience.



- 1
- Buying insurance is one the most important financial decisions an individual or family can make, and providing information to consumers in their primary language is a service that would help customers fully understand their benefits.
 - This legislation would also benefit North Dakotans whose primary language is English, in that the legislation supports and supplements North Dakota law requiring all drivers to carry auto insurance. Providing insurance documents in non-English languages can make that obligation easier to understand and comply with. This benefits all drivers.
 - ***Very importantly, the legislation provides that the English-language version of the document is primary and controls any and all dispute resolution.*** This preserves in law contract interpretation laws that have been established by the courts, the legislature and the Department of Insurance.
 - We worked with the Department of Insurance on this legislation, and at the Department's request, we have also incorporated a requirement that the non-English documents be filed with the
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Department, along with a written certification declaring that the non-English documents are an accurate translation of the benefits provided. This is a sensible request and makes things easier for the Department. Consumers would also be protected by existing unfair trade practices laws, which would preclude insurers from knowingly misrepresenting the content of materials in a language other than English.

- With the oil boom and influx of out of state drivers and new workers, this legislation provides a way to help make sure all drivers in North Dakota are adequately insured with the coverage that they need.
- 12 states have already adopted similar legislation [Illinois, Missouri, Georgia, Kentucky, Kansas, Tennessee, Alaska, Oregon, Washington, California, Florida and South Carolina], and many other states are considering such legislation this session.
- I ASK YOU TO VOTE DO PASS on this bill¹.