

2013 HOUSE TRANSPORTATION

HB 1431

2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee Fort Totten Room, State Capitol

HB 1431
02-07-13
Job # 18497

Conference Committee

Committee Clerk Signature

Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to prohibiting the use of certain brakes at certain locations.

Minutes:

Attachments 1-3

Chairman Ruby opened the committee on HB 1431.

Representative Gruchella, District 45, spoke to introduce HB 1431. He explained that the noise caused by decompression brakes is a problem, especially if you live on a highway where there is a stop sign. There are two parts to the bill. One is the problem of the noise caused by these brakes. The second is a problem for cities that incur the costs of putting up signs to stop the use of the decompression brakes. If we pass a statewide bill, every city won't have to put up signs.

Representative Onstad spoke to support HB 1431. He provided written testimony. See attachment #1. He also handed out testimony from Wayne Aberle, Williams County Commissioner and former North Dakota Highway Patrol, in support of HB 1431. See attachment #2.

Chairman Ruby: Are you familiar with the new "jake brakes"? I have some trucks that you couldn't hear if you were right beside them. There are also some pick-ups that have them, and they can't be shut off.

Representative Onstad: I understand that they are out there. Then the noise reduction is not an issue with those vehicles.

Representative Vigesaa: Shouldn't there be a fiscal note with this bill because it says the state shall post the signs? It will be an expense.

Representative Onstad: They currently post that on state highways; it is just the signs that are right next to the city limits that will not have to be utilized.

Vice Chairman Owens: The bill says, "The state shall post these zones on state highways." It doesn't say you don't have to near cities. Also, if the cities have these

ordinances, why wouldn't we leave it to the city to do? Why isn't it part of their noise ordinance?

Representative Onstad: We just want to make it uniform across the state.

Representative Weisz: If we don't have a state law, why is the state already posting signs on state highways prohibiting "jake brakes"?

Representative Onstad: The nuisance laws and the loud noise laws are there to cover that. The nuisance laws are not specific to engine brakes, so, it should be added in there.

Representative Weisz: I wonder why we would want to prohibit the use of these brakes on newer vehicles manufactured now that are not noisy. Those would then also be illegal.

Representative Onstad: All vehicles are not new. The law is trying to prohibit the ones that make noise. Maybe twenty years from now, it won't be necessary.

There was no further support for HB 1431.

Tom Balzer, North Dakota Motor Carriers Association, spoke in opposition to HB 1431. He explained that "jake brakes" don't really make the noise. It has more to do with the straight pipes that make the most noise. The only time you would really engage a "jake brake" would be within a mile of the city limits because that is when you have to slow down. Cities do have the right, now, to prohibit these brakes if they want to. His association is opposed to this bill.

Chairman Ruby: Isn't it usually the long haul truckers that use these brakes? It would be just the opposite of what Representative Onstad said.

Tom Balzer: You are correct, they are more efficient, they sound cooler, and they look cooler to some drivers.

Chairman Ruby: Is signage usually placed in areas where there is a slow-down, or apartments, or residential housing?

Tom Balzer: Yes, that is where you usually see them, especially the residential areas.

There was no further opposition to HB 1431.

Brad Darr, Director, Maintenance Division, North Dakota Department of Transportation, spoke in a neutral capacity on HB 1431. He provided written testimony. See attachment #3.

Representative Gruchella: Was the intention of the bill to just have the signs on the edge of the state, so we wouldn't have to sign every community?

Brad Darr: Yes, but this bill seems to require us to sign each community. Usually, you wouldn't have to do that, it would just be understood it is the whole state.

Representative Gruchella: If this bill is amended to say that they don't have to be posted on the city limits, then would it save the Department of Transportation money?

Brad Darr: Yes, it would.

Chairman Ruby: Would the current signs that are near the cities have to be moved out one mile away, or would they just be removed?

Brad Darr: If there was an amendment, I think we could remove all the signs.

Chairman Ruby: Do you only post state highways?

Brad Darr: Yes, we only post on the state highways.

Connie Sprynczynatyk, North Dakota League of Cities, spoke in a neutral capacity on HB 1431. She stated that noise is an issue that can really get people upset. What we do from the local level is work with the Department of Transportation with something called the Uniform Manual on Traffic Control Devices (UMTCD). If we have some sort of an issue, we work with the Department of Transportation who has a signage policy that is very strictly adhered to. However you dispose of this bill, we will continue that partnership. We will make it work however we can.

Representative Drovdal: Why don't the cities want to leave this up to local control?

Connie Sprynczynatyk: The League has not taken a position on this bill because, I suspect that if I polled the communities, those that feel that they have a problem have already implemented a noise ordinance and are working with the Department of Transportation for the signage.

There was no further testimony on HB 1431.
The hearing was closed on HB 1431.

2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

HB 1431
02-07-13
Job # 18619

Conference Committee

Committee Clerk Signature

Janette Cook

Minutes:

Chairman Ruby brought HB 1431 back before the committee.

Representative Delmore moved that we strike the last sentence on Line 9, "The department shall post these zones on state highways." Also replace the word "Jake" with "engine" and "break with "brake".

Representative Drovdal seconded the motion.

Representative Weisz: I would oppose the amendment on the premise that I don't think the whole state will know exactly where one mile from each city limits is, and it could become a trap for law enforcement. Who is going to post the mile? I think it is unreasonable to expect this of our freight community. Each community has the ability to decide this on their own.

Representative Kreun: On the interstate by Valley City there are signs. How did they get placed there?

Chairman Ruby: The city requested them, and the state put them up.

Representative Heller: There are signs coming into Beulah also, so the trucks can't use their engine brakes.

Chairman Ruby: You mainly see these signs when a city has a hill and a residential area. In Valley City the residents would be hearing it all day and all night if it wasn't posted.

Representative Delmore: I would like to think that sometimes people could use some common sense, as well.

Representative Sukut: Basically this is a local city issue. Did I understand correctly, that if a city would pass this ordinance and wanted signs put up, that the state would put them up?

Chairman Ruby: Yes, on the state highways.

A voice vote was taken on the amendment. The motion carried.

Representative Gruchella stated that the idea of this bill was to make the law statewide, so every community would not have to put up signs.

Representative Drovdal moved a DO NOT PASS AS AMENDED.
Representative Heller seconded the motion.

Representative Drovdal: I think most cities that have this problem have already passed an ordinance to handle it. I think it should be left up to the cities.

Representative Kreun: If the city has the ordinance, then will the state pay to put up the sign?

Chairman Ruby: Yes, on a state highway.

A roll call vote was taken on a DO NOT PASS as amended on HB 1431.
Aye 10 Nay 3 Absent 1
The motion carried.
Representative Drovdal will carry HB 1431.

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Adopted by the Transportation Committee

February 8, 2013

2/8/13
DNC

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1431

Page 1, line 6, replace "**Jake**" with "**Engine**"

Page 1, line 7, replace "break" with "brake"

Page 1, line 9, remove "The department shall post these zones on state highways."

Renumber accordingly

Date: 2-8-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1431**

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 Delmore Seconded By Drovdal
Amendment

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby			Rep. Lois Delmore		
Vice Chairman Mark Owens			Rep. Edmund Gruchalla		
Rep. Rick Becker			Rep. Kylie Oversen		
Rep. David Drovdal					
Rep. Robert Frantsvog					
Rep. Brenda Heller					
Rep. Curtiss Kreun					
Rep. Mike Schatz					
Rep. Gary Sukut					
Rep. Don Vigesaa					
Rep. Robin Weisz					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Line 6 - remove
Line 9 - remove,
Take out last sent. line 9

Date: 2-8-13
 Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1431**

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 Drovdal Seconded By Heller

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	✓		Rep. Lois Delmore		✓
Vice Chairman Mark Owens	✓		Rep. Edmund Gruchalla		✓
Rep. Rick Becker	✓		Rep. Kylie Oversen		✓
Rep. David Drovdal	✓				
Rep. Robert Frantsvog	✓				
Rep. Brenda Heller	✓				
Rep. Curtiss Kreun	✓				
Rep. Mike Schatz	A				
Rep. Gary Sukut	✓				
Rep. Don Vigasaa	✓				
Rep. Robin Weisz	✓				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Drovdal

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

REPORT OF STANDING COMMITTEE

HB 1431: Transportation Committee (Rep. Ruby, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO NOT PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1431 was placed on the Sixth order on the calendar.

Page 1, line 6, replace "**Jake**" with "**Engine**"

Page 1, line 7, replace "break" with "brake"

Page 1, line 9, remove "The department shall post these zones on state highways."

Renumber accordingly

2013 TESTIMONY

HB 1431

HB 1431

Good Morning, Mr. Chairman and members of the Transportation Committee

HB 1431 addresses the use of compression release engine brakes , commonly known as jake brakes, within the city limits of any community.

The reason for the bill and specific to engine brakes is the current nuisance laws dealing with loud noises is not specific to engine brakes.

Professional over-the-road haulers are respectful of city limits and are not the abusers of the use of jake brakes when entering the city limits.

IT is the local drivers, amateur drivers, and less experienced drivers that use the Jake Brakes.

Many cities have signs have them already posted, HB1431 will put it into code the specific use of engine brakes with in the one mile boundary of the city limits.

Thank you Mr. Chairman and open for questions.

Representative Onstad

February 7, 2013

Chairman Ruby and members of the Transportation Committee,

My name is Wayne Aberle, Williston North Dakota. I am a former Highway Patrolman for the State of North Dakota for over 30 years and currently a Williams County Commissioner.

I am in support of HB1431. My background as a highway patrol officer and nuisance laws of North Dakota provides my support of this bill. My experience with over the road truckers and I have great respect for their profession. They are very respectful of the other driver and very conscious of the use of engine brakes. Not true of all drivers.

The current nuisance and loud noise ordinances do not address the specific use of engine brakes and I had asked that this bill be introduced today. Engine Brakes have no business being used in the city limits except under an emergency situation.

I apologize for not being able to attend the hearing today and hope you will support the sponsors introducing HB 1431

Respectfully submitted

Wayne Aberle

Williams County Commissioner and former ND Highway Patrol

#3

HOUSE TRANSPORTATION COMMITTEE

February 7, 2013

10:00 a.m. – Fort Totten Room

**North Dakota Department of Transportation
Brad Darr, Director, Maintenance Division**

HB 1431

Mr. Chairman and members of the committee, I'm Brad Darr, Maintenance Division Director at the North Dakota Department of Transportation (DOT). Thank you for providing the opportunity to present some information to you today.

House Bill 1431 refers to "Jake Brakes", which is a proprietary name and it is recommended the wording be revised to state "Engine Brakes".

Currently, the DOT has a policy in-place that provides for the installation of "No Engine Brake" signing provided that the city has an ordinance regarding vehicle noise limits. When a request comes in from a city to install "No Engine Brake" signs the DOT verifies that there is an ordinance in place. The DOT then provides and installs the signs. Installing "No Engine Brake" signs in all areas within one mile of the city limits, when the cities are along a state highway would cause added maintenance as well as an increase in signs and added hazards along the highway system. We are not aware of any concerns that cities may have with the existing policy and we have installed the "No Engine Brake" signs for 39 cities. .

The Department has done some research on the cost to install the new signs required by this bill. It is estimated that it would cost approximately \$315,000 to comply with this bill.

Thank you Mr. Chairman, This concludes my testimony.