

FISCAL NOTE
Requested by Legislative Council
01/12/2015

Bill/Resolution No.: HB 1164

- 1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

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

HB1164 creates an option for an interlock program.

- 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 would result in a fiscal impact. However, we are unable to determine the amount of that fiscal impact at this time.

Implementation of this program would involve an RFP process to find a vendor to manage the actual reporting system, at an unknown cost. System changes to the DOT driving program would be minimal. It is unknown if there would be any staff impact to monitor/manage the interlock program.

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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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Date Prepared: 01/15/2015

2015 HOUSE TRANSPORTATION

HB 1164

2015 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1164
1/23/2015
#22460

☐ Subcommittee
Conference Committee

Committee Clerk Signature

Janette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to ignition interlock and the twenty-four seven sobriety program; and relating to the twenty-four seven sobriety program.

Minutes:

Chairman Dan Ruby opened the hearing on HB 1164.

Representative Maragos introduced HB 1164. The intent was to allow a provision for the interlock system to be used in place of the twenty-four seven sobriety program. He explained that a person had been convicted in another state and put under an ignition interlock system. When he returned to North Dakota, he was unable to get a temporary driver's license because North Dakota is not using the ignition interlock system. Unless the State's Attorney in the state where this took place, Colorado, releases the defendant back to the state of North Dakota nothing can be done to get a temporary license. North Dakota would have to have the interlock to substitute for the Colorado program. My understanding is that North Dakota does have an interlock program, but the judges just don't use it. This young man established a good business. But because he couldn't get a license, it was impossible for him to succeed in his business and keep going.

Vice Chairman Lisa Meier: Is your intent for the state to pay fully for the interlock device?

Representative Maragos: It is my understanding that we have them, but just don't use them. I think that would be the case if we implement it.

Vice Chairman Lisa Meier: Do you know what the cost is for the device?

Representative Maragos: I do not.

Representative Robin Weisz: How would this bill fix the problem of not being able to get a permit to drive without getting the release of the State's Attorney in Colorado?

Representative Maragos: I understand that if we would have the same interlock program, because of our reciprocity, then he would be able to apply for a temporary permit. But

since we don't have the ability to put him on the interlock program, and without the release from the State's Attorney in Colorado, it is not possible to get the permit.

Chairman Dan Ruby: I think that we do have language in law that allows the judges to put the interlock devices on the vehicles. The reason that this is not being done is that there are no companies in North Dakota that sell them and install them. I think the cost goes to the offender.

Representative Maragos: I think that you are right. The closest company might be South Dakota. I also think that it would be the offender that would have to pay for it.

Representative Robert Frantzvog: Why did this young driver chose North Dakota?

Representative Maragos: The young man grew up in North Dakota. He moved to Colorado, made a mistake and got a DUI, and was having trouble. The parent brought him back and established a good business for him. He tried to get a temporary permit, so he could go to his job, but he couldn't. The parent was very frustrated.

Chairman Dan Ruby: As I read this, the bill gives the Attorney General the ability to forgo the twenty-four seven and have them put an interlock device on there. It already has been an option of judges for some time, but I don't know that this could have been replacing that. It still may not fix a situation in which another state is not responding appropriately or efficiently to solve someone's issue.

Representative Maragos: You have a valid point. This bill was hoping to allow the state to issue the temporary license because of reciprocity, rather than waiting for a release from some State's Attorney that doesn't have time to get to this issue.

Representative Robin Weisz: The way this language is written, it applies **only** to those that are currently in the twenty-four seven program. It is limited to those that already participating in the twenty-four seven sobriety program. Would it even apply in your constituent's case?

Representative Maragos: I believe it would because of the interlock system, and the similarity to the system of Colorado. I wish I had a more informed answer for you. Isn't the twenty-four seven the main sobriety program of the state?

Chairman Dan Ruby: This is just allowing the conversion from the twenty-four seven to breath interlock. He wouldn't be under the twenty-four seven program.

Representative Maragos: I see your point.

Representative Robin Weisz: The twenty-four seven is a program that the courts can use at their discretion. It seems like it is more of an issue of if the Department of Transportation is willing to issue a work permit based on ... Maybe the Department of Transportation will have some answers for us.

Representative Lois Delmore: It says that, "the Attorney General may allow" ... Might that help clarify some of the problems that we are looking at? It could be looked at more on a case by case situation. He may need to go through the Attorney General to see what might be the best approach for him.

Representative Maragos: Yes, the Department of Transportation has no flexibility what so ever in trying to help this young man to get a license because of the way that the law is structured and the way that we interact with Colorado. It is just an attempt to give the department the ability to issue that temporary license if they feel that it is warranted.

There was no further support for HB 1164.
There was no opposition to HB 1164.

Chairman Dan Ruby called for any neutral testimony.

Representative Robin Weisz: I have some questions for the Department of Transportation.

Mark Nelson, Deputy Director for Driver Vehicle Services and for the Safety Division at the Department of Transportation stood to answer questions.

Representative Robin Weisz: If someone has a DUI from another state, and part of their situation was an interlock, can they get a temporary work permit to drive in North Dakota?

Mark Nelson: Because the twenty-four seven program isn't recognized at the National level as an interdiction tool that is used, some states aren't accepting the twenty-four seven as the alternative to ignition interlock. That may be the case with Colorado. If Colorado is not recognizing twenty-four seven as alternative, then they will not allow that transfer to come into North Dakota, and we would not have an option to give them a temporary restricted license.

Representative Robin Weisz: Even though he is now residing in the state of North Dakota, it is still the state that he came from that is still determining the conditions and whether he can drive or not?

Mark Nelson: Yes, if the restriction from Colorado says he needs ignition interlock and they will not recognize our twenty-four seven program as an alternative, then there wouldn't be an option for him to come back to this state. He has a suspension in Colorado; we can't allow a suspended driver to come back into the state of North Dakota and give them a temporary restricted license.

Representative Robin Weisz: Even if he has a vehicle with ignition interlock, he cannot get a license to drive in North Dakota?

Mark Nelson: No.

Representative Chris Olson: Is there is restriction where you are not able to issue a license, based on what they think in another state?

Mark Nelson: The compact agreement that we have for driver's licenses with other states wouldn't allow that to occur.

Chairman Dan Ruby: Would our existing laws that we have on the interlock, would that allow us that flexibility? This makes it seem like someone who is in North Dakota and gets a DUI and is in the twenty-four seven program, has the option with the permission of the Attorney General to be switched over to the breath interlock. It doesn't seem like it is changing anything in the way that we deal with out-of-state. If a person would come here, I thought that our interlock device option for judges would have allowed it. Is that not right?

Mark Nelson: The Department of Transportation under 39-06.1-11 has the ignition interlock devices that the director may issue them. We have never gone that direction or implemented that section. We currently don't have ignition interlock devices. The judge provision that used to be under 39-08 **was removed a couple of sessions ago**.

Representative Chris Olson: Under the compact we cannot issue a temporary license to someone that has a suspended license from another state unless they give us permission?

Mark Nelson: I believe you are correct. I will check and get the information back to the committee.

Vice Chairman Lisa Meier: What do you assume would be the cost of an interlock device?

Mark Nelson: I don't know. I can find out.

Representative Robin Weisz: When we debated this, the monthly cost was somewhere around \$70 a month. There was also an upfront cost to install it. The state doesn't have to pay for the cost.

Representative Chris Olson: Do you know why the director has never opted to use interlock?

Mark Nelson: We are satisfied with the twenty-four seven program, and think it is accomplishing what we want it to accomplish.

Chairman Dan Ruby: If this person would come up here, and we made the change, and it helped with the reciprocity, would they be able to work with a company that could monitor it?

Mark Nelson: We have one vendor in North Dakota who is in Williston, but I am not sure if they are just serving Montana. I believe we could monitor it.

Representative Lois Delmore: The twenty-four seven cost is born by the individual, correct? And what is the cost.

Mark Nelson: That is correct. The cost is \$1 per blow or \$2 a day; the bracelet is \$5 a day with the upfront cost of \$25.

There was no further testimony on HB 1164. (26:31)

Chairman Dan Ruby opened the committee discussion on HB 1164. (10:20 AM)

Chairman Dan Ruby: This is the breath interlock bill that we heard this morning.

Representative Chris Olson: I don't understand why the individual that came from Colorado was denied release from their State's Attorney, considering the fact that the ignition interlock system works wirelessly, and the vendor should be able to administer it from any location. It should still work in the state of North Dakota. The director does have the option of imposing the interlock device; it is in code already. This code would be redundant to that effect. There are a lot of holes in the bill.

Representative Robin Weisz: The reality is that the person has penalties imposed on him in the state of Colorado. Until he serves that out, why would Colorado release it? They shouldn't, he has to serve his penalty in that state.

Chairman Dan Ruby: The way that I understand it is because it didn't go through our courts, we didn't have the reciprocity. I'm assuming that the State's Attorney said that North Dakota doesn't have the ignition interlock in our criminal code or as a penalty option in the courts, so we didn't have the reciprocity. I could be wrong.

Representative Lois Delmore: If Colorado won't recognize our program, they won't let him finish his sentence in North Dakota. Then he won't be able to get a license in North Dakota. Not every state recognizes every program for a DUI. Twenty-four Seven is not as old as the interlock device.

Representative Robin Weisz: This person doesn't face any criminal action in the state of North Dakota, so he can't even qualify for the Twenty-four Seven program.

Representative Lois Delmore: His record still follows him when he comes here and applies for a license in North Dakota. The Colorado one won't stand if that is challenged because he has specifications there that he has to meet.

Representative Gary Paur: Could the intern look into that?

Chairman Dan Ruby: Challis, could you look into the reciprocity and whether it applies? Maybe you could find some legal guidance on that.

Challis Williams, Student Intern: The way the bill is written, it wouldn't apply to anyone that was convicted of a DUI or any other offense outside the state of North Dakota if they are not already enrolled in the Twenty-four Seven Program.

Chairman Dan Ruby: So, that is correct, they already must be enrolled in the Twenty-four Seven Program for this to apply.

Representative Chris Olson: We don't have any evidence that this would create the necessary conditions for reciprocity to occur. We don't have an opinion from the State's

Attorney or Attorney General that states that if we had this code then Colorado would go ahead and engage in reciprocity.

Representative Chris Olson moved a DO NOT PASS on HB 1164.
Vice Chairman Lisa Meier seconded the motion.

A roll call vote was taken. Aye 11 Nay 2 Absent 1
The motion carried.

Representative Gary Paur will carry HB 1164.

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1164**

House Transportation Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Representative Chris Olson Seconded By Vice Chairman Lisa Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby	X		Rep. Delmore		X
Vice Chairman Meier	X		Rep. Hanson	X	
Rep. Rick Becker	X		Rep. Nelson		X
Rep. Frantzvog	X				
Rep. Hawken	A				
Rep. Olson	X				
Rep. Owens	X				
Rep. Paur	X				
Rep. Schatz	X				
Rep. Sukut	X				
Rep. Weisz	X				

Total (Yes) 11 No 2

Absent
1

Floor Assignment Representative Gary Paur

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

REPORT OF STANDING COMMITTEE

HB 1164: Transportation Committee (Rep. Ruby, Chairman) recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1164 was placed on the Eleventh order on the calendar.