

FISCAL NOTE
Requested by Legislative Council
01/14/2015

Bill/Resolution No.: HB 1204

- 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).*

This bill pertains to yielding to emergency vehicles and the related penalties for failure to do so.

- 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 have no substantial impact to NDDOT.

The bill would impact the revenue that is generated by penalties for failure to yield to emergency vehicles. However, this impact cannot be determined at this time because it is not known what deterrent impact may result thus affecting the amount of violations and the resulting fees.

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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Agency: NDDOT

Telephone: 328-4375

Date Prepared: 01/15/2015

2015 HOUSE TRANSPORTATION

HB 1204

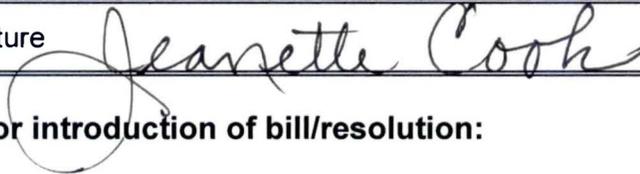
2015 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1204
1/22/2015
#22415

Subcommittee
Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to yielding to authorized emergency vehicles; and to provide a penalty.

Minutes:

Attachment #1

Chairman Dan Ruby opened the hearing on HB 1204.

Representative Maragos introduced HB 1204. The bill intends to reduce speeds in certain circumstances and certain situations when traffic is passing emergency vehicles. There is a change on Page 2 line 9. It should say a fee of \$50 rather \$75.

Jonathan Malater, a firefighter and rescue responder in Underwood, spoke to support HB 1204.

Jonathan Malater: With the increased traffic in our state, we feel that this is a safety issue, when we are helping people. It is also a safety issue for law enforcement when they are on a busy highway. We are afraid that they are going to get hit by a vehicle. Other states have laws that state, "Upon approaching an emergency vehicle, slow down and then move over." I understand that we do have the "move over" law. The slow down portion would be more effective to increase the safety of those that are out there to do a job. He shared pictures of vehicles that were crashed into when stopped at the scene of an accident. (He did not leave pictures for the record.) When emergency vehicles get hit they are out of service for a while. It takes the department time to get back in service with that vehicle. I also found other states that put up signs in major cities that tell drivers to "Slow down and move over, when approaching emergency vehicles."

Representative Chris Olson: Thank you for coming out to testify, Jonathan. It looked like the fire truck that you showed us was rear-ended.

Jonathan Malater: Yes, it was stopped on a highway, and some people just get tunnel vision and crash right into things.

Representative Chris Olson: So, if we had this law in place at the time, it still probably wouldn't have prevented that issue, would it? It was clear that someone that was not paying attention.

Jonathan Malater: Probably not.

Representative Chris Olson: In the ambulance accident it looked like the ambulance had been rolled?

Jonathan Malater: Yes, it had been hit at full speed. Clearly drivers don't pay attention. Up in Ward County recently, a Ward County Deputy was almost killed when a vehicle smashed into the back of his patrol car. There are reports that say if someone had been in the back seat of the vehicle, they would have been instantly killed. My father is a police officer. He was nearly struck by a passing truck; it was within inches. They chased the person down, and the driver just said, "What were you doing out there?" This was passing an accident involving a semi, there were over 12 emergency vehicles at the scene, and they clocked the passing truck at 72 mph.

Representative Chris Olson: Was the ambulance stopped in the lane?

Jonathan Malater: They were stopped off the shoulder.

Representative Chris Olson: I am just trying to look at how this law would be able to prevent incidents like these from occurring because it seems clear that some people are just not paying attention. It won't help even if we make a law to slow down and move over.

Jonathan Malater: I know we can't prevent every accident. We don't know what drivers think. We are always thinking about what might happen behind us. Just slow the drivers down a little bit, 70 mph vs 50 mph is quite a difference. We do use our vehicles as buffers, and that is why it is done that way, but then it may take the vehicle out of service.

Chairman Dan Ruby: Did you get the idea for reducing the speed by 20 mph from another state?

Jonathan Malater: Yes, South Dakota, Wyoming and several other states have that. It depends on the state.

Chairman Dan Ruby: If a law enforcement officer is outside the vehicle, how will the law enforcement officer know the speed of the vehicles passing?

Jonathan Malater: They can clock them. If someone doesn't move over, they can be given a ticket or a warning. Sometimes there may be an extra officer in the area.

Chairman Dan Ruby: Was it your intention that the fine be \$50 rather than \$75?

Jonathan Malater: Yes, then it would be the same as the move over penalty.

Steve Dirksen, representing North Dakota Fire Chief's Association, supports HB 1204. I understand there is an issue of how this actually does reduce the risk, and how do we limit

accidents. I do think there needs to be a penalty that goes along with it. Recently we had a Suburban strike our fire truck at full speed on the interstate. It was only 30 seconds after the full crew had climbed back into the truck. There was \$75,000 damage to the truck, and now the truck is out of service for 6 months. The person was cited for "care required." The penalty was substantially less than if they would have hit a snow plow. It seems like a discrepancy in the law. We support anything that we can do to protect our people and give a stiffer penalty for it if the driver does not provide the care. Every year there are emergency workers injured or killed. I don't know how to prevent it, and I would like to see the penalty stronger.

Representative Chris Olson: Do you see any unintended consequences if we were to expand this to apply to any vehicle that is pulled over on the side of the road? It seems like everyone should be afforded the same type of protection that we want to give to our volunteers.

Steve Dirksen: I would think you could do that.

Chairman Dan Ruby: I have no problem with the slowing down or the fine. One of the big problems that I see with the bill is that when you put a speed limit on there are signs that say when to start and when to stop. I think that there would be some confusion to the public of when to start slowing down. Maybe law enforcement would only worry about it when the vehicle passes, but there could be some disagreement as to what speed they were doing right by the vehicle. Do you have any thoughts that could relieve that concern?

Steve Dirksen: I do not. Maybe, just making it part of driver education that when coming upon an emergency vehicle with lights operating, you need to reduce your speed within 300 feet. It would help.

Chairman Dan Ruby: Most people see a speed limit sign, and they know the speed. This will require everyone to know how many miles per hour under the speed limit they need to be. It may be difficult. Also knowing when the reduced speed starts and stops is a concern to me.

Steve Dirksen: I would encourage a heftier fine. That would be important to me.

Representative Marvin Nelson: On Page 3 Section 2 it says the driver should actually STOP. If cars are barreling into fire trucks with flashing lights, I don't want to stop and be the bumper. Do you think you could come up with a speed limit, rather than stopping? Do you see people stopping before they proceed through?

Steve Dirksen: No.

Vice Chairman Lisa Meier: What about in icy road conditions, would setting a specific speed be more dangerous? Wouldn't it be better if they could just slow down gradually? I'm worried that a bad situation could be worse.

Steve Dirksen: I would agree with that. It is very tough to enforce. You have to look at safety. I would hope that people are using care. It may be very difficult to legislate common sense. This is just an effort to try.

Representative Chris Olson: Maybe emergency responders should be required to set out road cones, like the semi drivers do. The emergency vehicles are flashing and stand out, but seem to need less protection than someone changing a tire or whatever.

Steve Dirksen: I would agree. We have a policy in our department in Fargo to use the fire truck as the buffer.

Representative Maragos: As far as stopping, **that is in current law.** This just changes that it is the driver's responsibility to slow down. Maybe we could use more PSA (Public Service Announcements) to help the people understand the law. We already require the reduction of speed for construction zones.

John Malater: In Pennsylvania they require all vehicles to slow down for a vehicle stopped for any reason.

(26:30)

Wayde Swenson, Office of Operations Director, for the North Dakota Department of Transportation, spoke to support HB 1204 with the changes. He provided written testimony which includes amendments to the bill as written. See Attachment #1.

Representative Gary Paur: Exactly what is the point of this bill? All of the examples that have been given would not be changed by this bill. Am I missing something?

Wayde Swenson: Our interpretation would be that if one of our vehicles was stopped to pick up a deer, for example, our expectation would be that since it may be difficult to move over on a two lane road, that the person would be required to slow down as they pass. That is my interpretation.

Representative Gary Paur: Basically, if they can't move over, you would like them to slow down?

Wade Swenson: Yes.

Chairman Dan Ruby: This would apply to any vehicle that the Department of Transportation has. So, if someone has a pickup parked along the road weed-eating around signs, every vehicle would have to slow down?

Wade Swenson: Yes.

Representative Lois Delmore: The vagueness of the speed and when I need to slow down bothers me. In a construction zone, a driver knows what they have to do. It bothers me that there is not a specific number.

Wade Swenson: I agree. If was the Department of Transportation's position, we would probably make it a set distance before they get there.

Representative Lois Delmore: This would also depend on road conditions and traffic. Even on a four lane highway, if you have a semi behind you going the speed limit, it is pretty hard to slow down. There are other complications that enter into this as well.

Wade Swenson: Yes, there are.

Representative Chris Olson: Under current law if someone speeds by an emergency vehicle, couldn't that be punished by a reckless driving charge?

Tom Iverson, the Safety and Education Officer for the Highway Patrol: Yes, it is possible. However, it is not well spelled out within the Century Code on what exactly that violation could be. It could be argued in court, but the person wouldn't have a good leg to stand on with regards to that. Addressing the issue of the 20 mph below the speed limit, I think potentially the reason why a number was suggested is that right now the way the law is written the driver needs to "slow down and proceed with due care." That is if they cannot get over; they need to slow down. Slow down means different things to different people. It could be slowing down by 1 mph. The number was put in because of that reason. I do agree that it could be confusing.

Representative Ben Hanson: Is there currently in statute a certain number of feet and a certain number of miles per hour that directly constitutes reckless driving or endangerment for anyone driving a car too quickly by emergency vehicles on a roadway?

Tom Iverson: No, there is not.

Representative Gary Paur: We are worrying about large fire trucks. I know that the Highway Patrol has suffered numerous fatalities and serious injuries from people hitting your cars while being pulled over on the side of the road. Just a comment.

Tom Iverson: Yes, that is true. The move over law was put into effect after an officer was killed, and it is a very good law. I also agree on a comment that was made earlier. It was about public education in regards to the law. We do try to have PSAs and educate the public because there are a large amount of people, even North Dakota citizens, that do not understand that it is the law to move over.

Representative Chris Olson: Do you have any statistics on the type of citations that we might be handing out on the move over law?

Tom Iverson: I don't have that with me, but could get that information. It is rather difficult to enforce if you are not teamed up with another officer.

Bill Kalanek, North Dakota Towing Association, spoke to support HB 1204. He stated that they are supportive of the concepts contained in this bill, however how the mechanics of it would work, he doesn't have the answers. From a public safety perspective our

members are the ones on the roadways clearing accidents, and we feel that anything to improve the safety of our members would be appreciated.

Representative Chris Olson: Would you like the law to be expanded to include tow trucks?

Bill Kalanek: We wouldn't mind.

There was no further support for HB 1204.
There was no opposition to HB 1204.

The hearing was closed on HB 1204.

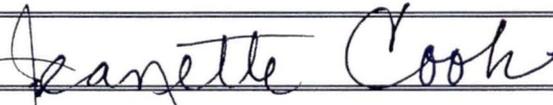
2015 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1204
1/23/2015
22457

Subcommittee
Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to yielding to authorized emergency vehicles; and to provide a penalty.

Minutes:

Chairman Dan Ruby opened the committee for discussion on HB 1204. He reminded the committee that there were two proposed amendments and reviewed the intent of the bill.

Representative Chris Olson: I will reiterate my views from yesterday. It seems like if this bill ought to be law, then it ought to protect **everyone** who is pulled over on the side of the road. It seems like the intent of the bill doesn't go far enough. I am opposed to the bill in principle because it adds another layer of trying to legislate common sense. We do have reckless driving laws on the books that are open to common sense interpretation. Those laws could be used in these cases.

Chairman Dan Ruby: My concerns are knowing exactly when you need to be slowed down and how to know exactly what that speed is supposed to be. I do feel bad for people that are on the highways and have vehicles flying by them, but there is no guarantee that this law would change that.

Representative Rick C. Becker moved a **DO NOT PASS** on HB 1204.
Representative Mike Schatz seconded the motion.

A roll call vote was taken: Aye 12 Nay 0 Absent 2
The motion carried.

Representative Ben Hanson will carry HB 1204.

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1204**

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 Rick C. Becker Seconded By Representative Mike Schatz

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	A	
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) 12 No 0

Absent 2

Floor Assignment Representative Ben Hanson

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

REPORT OF STANDING COMMITTEE

HB 1204: Transportation Committee (Rep. Ruby, Chairman) recommends DO NOT PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1204 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

HB 1204

HB 1204
1-22-15
#1

1 of 2

HOUSE TRANSPORTATION COMMITTEE
January 22, 2015 ~ 2:00 p.m. ~ Lewis and Clark Room

North Dakota Department of Transportation
Wayde Swenson, Office of Operations Director

HB 1204

Mr. Chairman and members of the committee, my name is Wayde Swenson, Office of Operations Director, for the North Dakota Department of Transportation (DOT).

The DOT supports the changes contained in HB 1204. However, as written the DOT does not believe that its vehicles are included in the new two lane portion of the proposed bill. The DOT would also like to include the lowering of the speed limit to the section dealing with DOT vehicles.

The DOT is providing a recommended amendment, Attachment A, to the bill:

The first amendment would be on Page 3, line 23, after "vehicle" insert "or a vehicle operated by or under the control of the director used for maintaining the state highway system".

The second on Page 3, line 25, remove the third comma

The third would be on Page 3, line 25, after "light" insert "or, in the case of a vehicle operated by or under the control of the director, the vehicle is displaying a flashing, revolving, or rotating amber or white light,"

The fourth on Page 4, line 5 after "vehicle" insert "to at least twenty miles (32.19 kilometers) an hour below the posted limit"

The fifth on Page 4, line 6 after "conditions" insert ", except as otherwise directed by a police officer"

The sixth on Page 4, line 15, after "3" insert "4 or"

Renumber accordingly

The DOT has many operations that require maintenance vehicles to be stopped or driven on the shoulder. The safety of highway workers and the traveling public would be improved by this amendment.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions the committee may have.

HB 1204
1-22-15
#1

2 of 2

ATTACHMENT A
PROPOSED AMENDMENTS TO HOUSE BILL NO. 1204

Page 3, line 23, after "vehicle" insert "or a vehicle operated by or under the control of the director used for maintaining the state highway system"

Page 3, line 25, remove the third comma

Page 3, line 25, after "light" insert "or, in the case of a vehicle operated by or under the control of the director, the vehicle is displaying a flashing, revolving, or rotating amber or white light,"

Page 4, line 5, after "vehicle" insert "to at least twenty miles [32.19 kilometers] an hour below the posted limit"

Page 4, line 6, after "conditions" insert ", except as otherwise directed by a police officer"

Page 4, line 15, after "3" insert "4 or"

Re-number accordingly