

2015 HOUSE TRANSPORTATION

HB 1206

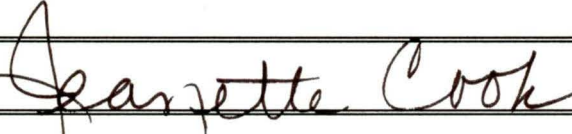
2015 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1206
2/12/2015
#23748

☐ Subcommittee
Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL relating to motor vehicle financial responsibility.

Minutes:

Attachments #1-4

Chairman Dan Ruby opened the hearing on HB 1206.

Representative Nathe introduced HB 1206. He deferred questions to the others here to testify.

Evan Mandigo, State Executive for the Independent Insurance Agents of North Dakota, spoke in support of HB 1206 and provided written testimony. See attachment #1.

10:50

Representative Robin Weisz: Will this mean that all of my farm equipment would need to be under an auto policy?

Evan Mandigo: There is another provision of Chapter 39 that gives a blanket exemption for all agricultural equipment. For example, a combine driving down I-94 would be covered by a farm liability policy, but it is not subject to financial responsibility under Chapter 39.

Representative Robin Weisz: So, a contractor that is driving a bobcat down the highway **would be** subject to financial responsibility.

Evan Mandigo: That is the interpretation of the existing Century Code.

Chairman Dan Ruby: The definition for motor vehicle here just says self-propelled. Where is the language that you mentioned that says, "moves people or property"?

Evan Mandigo: 101 is the requirement that a vehicle used to move people or property is properly insured. Our point with this legislation is that special mobile equipment does not have a primary purpose of moving people or property when it is operating on a public road. We are not advocating that mobile equipment not be insured. We are just saying that it belongs on a general liability policy where it was until 2004.

Representative Robin Weisz: I don't see any exemption for Ag, at least not under the definition of what a device is. 101 seems to include everything.

Evan Mandigo: Yes, but only if the vehicle is used to move people or property. That is the distinction. We are not saying anything about the insurance on vehicles that move people or property on public roads because those need to be correctly insured by existing statute. We are not touching that.

Representative Mike Schatz: Since the word trailer is already in there, are you just adding this sentence on to it?

Evan Mandigo: Yes, we are adding 8-9 words that clarify that it is mobile equipment is not used to move people or property.

Representative Mike Schatz: If you have a backhoe that is mounted on a pick-up, it is now a combination of things. The backhoe is designed to dig holes, but it is on something that moves like a pick-up would. Would that be something that would be involved?

Evan Mandigo: The liability in that case rests with the pick-up or a trailer if the equipment is being hauled.

Representative Gary Paur: In the beginning of Chapter 39 it has a more extensive definition of motor vehicle than is in this section. Mr. Mandigo's definition in the bill is not **exactly** the same as in the Code. In essence it is, but it is not a perfect replication.

Chairman Dan Ruby: Is this change in this section of Code because this is the section that has the insurance requirements for motor vehicle?

Evan Mandigo: The change is to 39-16-01.5 which defines what a vehicle is for the purpose of insurance. I didn't bring up each section; I sort of paraphrased it. You need to keep in mind that 39-0101-101 establishes that any vehicle that is used to move people or property on a public road has to be insured. We are not touching that. We are just changing what the definition of a motor vehicle is in Chapter 39.

Chairman Dan Ruby: What are the levels of insurance for the general liability? What would it all cover and what about medical?

Evan Mandigo: I don't know of any contractor that writes limits less than a million dollars, often multiples of that. With the standpoint of PIP and Uninsured Motorist, someone who is driving a backhoe and is injured will be subject to worker's compensation, rather than the medical insurance on PIP. There are specific opt outs for independent contractors in the worker's compensation law. The general liability covers negligence by the operator of the piece of equipment that ends up in a crash. There are medical payments that come with that.

Representative Lois Delmore: Are you required to carry general liability?

Evan Mandigo: No business person is required to carry general liability. Our position is that the general liability policy was always, historically, the place to cover special mobile equipment. We just want to take out a statutory impediment that allows it to go back.

Chairman Dan Ruby: Did you say that there have been attempts to make changes with the Insurance Office?

Evan Mandigo: Our National Association of the Independent Insurance Agents and Brokers of America has been working with the insurance office to fix this exclusion and take it aback. We have been less than successful on a national scale. There is any number of reasons that NSO has chosen not to engage.

Chairman Dan Ruby: What is the likelihood that they would say that general liability policies wouldn't cover won't cover these vehicles on the road because of their own language?

Evan Mandigo: As long as the language exists in their filed forms that say that the special mobile equipment is not subject to registration or financial responsibility, they would have to reverse an exclusion that they have already written. Our suggestion to them is to just take that exclusion out in the next version. For whatever reason, it hasn't happened.

Chairman Dan Ruby: I'm just saying we can put the special mobile equipment in an exclusion in an insurance portion of our Section Code dealing with motor vehicle, but if they choose not to insure them under general liability because of their forms; they will still need to be licensed as a motor vehicle. So, are we going to be able to accomplish anything?

Evan Mandigo: The Insurance Services Office can always change the forms, and they do. But, as long as the exclusionary language that we reference is contained in the forms they have filed with the insurance department, our change would remain effective. That is true with any filed insurance form. People who file insurance forms can change definitions and that sometimes has repercussions. At this moment in time they have shown no inclination to tell all of the other states that they can't do this. We are not plowing fresh ground here. This is a change that many states have made, including Minnesota and South Dakota.

Steve Becher, Executive Director of the Professional Insurance Agents and Executive Director of the Professional Insurance Agents of North Dakota, spoke to support HB 1206.

Steve Becher: I would like to answer **Chairman Dan Ruby's** question in a little different way. Right now, the Insurance Services Office excludes coverage under a general liability policy if the vehicle is subject to registration or financial responsibility. So, right now it says that if a vehicle is subject to financial responsibility, (according to our current law - special mobile equipment vehicles are) they're not covered under a GL policy. This bill would remove them from financial responsibility which would make them automatically covered under a General Liability policy.

Written testimony was provided. See attachment #2.

Representative Rick C. Becker: Has this been like this for 10 years?

Steve Becher: The problem was created by the Insurance Services Office about ten years ago when they changed their form. The Insurance Services Office feels that mobile equipment should be covered under the general liability policy and auto should be covered under the auto policy. In 2004 they changed their forms to make that distinction. So, that is when **our** law contradicted what the normal policies will do.

Representative Rick C. Becker: Have there been any problems in the past ten years?

Steve Becher: Not that I am aware of, but I think that the potential is there. If an insurance company would say that there is no coverage because you should have had this under an auto policy, then there could be potential for a consumer to be stuck without anything.

There was no further testimony in support of HB 1206.
There was no testimony in opposition to HB 1206.

34:30

Captain Eldon Mehrer, commander of the North Dakota Highway Patrol's Motor Carrier Division, spoke in a neutral capacity on HB 1206. See attachment #3.

38:00

Mark Nelson, Deputy Director for Driver and Vehicle Services within the North Dakota Department of Transportation, spoke in a neutral capacity on HB 1206. Written testimony was provided. See attachment #4.

Chairman Dan Ruby: If people license their vehicle, and they sign off that they are going to insure it properly, then it is not verified. With this there is no way really to verify that anyone that is driving a loader down the highway or in town has the general liability. Is that your concern?

Mark Nelson: That is absolutely correct. We have people driving down the roads without insurance. If someone is caught, there are consequences for not having it.

Chairman Dan Ruby: If we added an amendment to this that says, "Anyone who is not required to have vehicle insurance must have at least liability insurance when accessing a road." Would we have to specify a penalty as well?

Mark Nelson: I am not aware of anything like that currently in law; it would be something that has to be added.

There was no further testimony on HB 1206.
The hearing was closed on HB 1206.

2015 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee Fort Totten Room, State Capitol

HB 1206
2/13/2015
#23844

☐ Subcommittee
Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to motor vehicle financial responsibility.

Minutes:

Chairman Dan Ruby brought HB 1206 back before the committee. **Steve Becher** was going to bring language that those vehicles could be on the road as long as they had general liability.

Representative Robin Weisz: I have a concern about that. On farm liability policies they don't necessarily list any of the equipment. So, will a farmer who has a general liability policy be able **to prove** to the highway patrol that a particular piece of equipment (tractor, bobcat, etc.) has coverage if it is not listed on the policy?

Representative Gary Paur: I talked to a Highway Patrolman, and he said that in that situation you can call your agent, and the Highway Patrol will accept an electronic confirmation that the vehicle is covered.

Representative Robin Weisz: I may not even be able to prove that it is **my** tractor, and the VIN number will not be listed on the policy. I **am** concerned that I will not be able to **prove** my liability.

Chairman Dan Ruby: I don't know if that is something that we can really solve with this bill.

Representative Chris Olson: That problem exists right now. These special mobile vehicles don't have auto insurance. So, if they do have general liability, there is no proof right now. This probably hasn't been a problem for the past ten years. The purpose of this bill is that the general liability companies, because of the change in the insurance law, will not cover these special mobile vehicles if they are required to have auto insurance. Right now they are. So, it is a technicality in our law which is potentially preventing the vehicle from being covered under the general liability. I think that one way to make the bill better would be to say, "the term does not include special mobile equipment which is otherwise covered under a general liability policy". If it **is** covered under a policy, then it is **not** a

motor vehicle. But, if it **is not** under a GL policy, then it **is** a motor vehicle. I think that we should add some language.

Chairman Dan Ruby: Not a bad suggestion.

Representative Robin Weisz: Based on the testimony these vehicles (special mobile equipment) are not to be covered under an auto policy. So, it shouldn't be an either/or situation. You could just add language that says, "Any equipment on our highway systems must have some general liability." Then the driver will have to come up with a way to prove it. I think that under a lot of the commercial liability policies do list all pieces of equipment. I would prefer that we keep this clean, and add "anything on the highway has to have liability".

Chairman Dan Ruby: That would be in a different section of Code.

Representative Robin Weisz: Yes, it would be.

Representative Gary Paur: After equipment, what would happen if you put, "which are required to have general liability insurance when operating on a highway".

Chairman Dan Ruby: I don't think that we should have the definition of motor vehicle relate anything to do with insurance. That will have to be in a different section.

Representative Lois Delmore: The big concern of those opposed to the bill was, if one of them (special mobile equipment) drives down the road without liability, that was more alarming than the other part of the liability. I don't know how we can fix it. This doesn't address liability insurance, but it is certainly part of the issue if we are going to let them go on their own in another classification.

Vice Chairman Lisa Meier: I have those same concerns. I was just reading over the testimony of the Lieutenant. He stated that there is also no consequence for those who choose not to get insurance, or those who may have a gap in coverage, as well.

Representative Robin Weisz: You can't just say that these vehicles have to have liability. I would argue under current law, after the change in 2004, a lot of vehicles that had liability may not be covered. Plenty of us could be running around with no coverage. If nothing else, this is a big improvement.

Discussion on liability in code.

Chairman Dan Ruby: We will hold this bill until next week to make sure the language is correct.

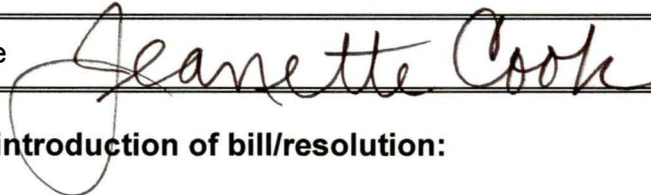
2015 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee Fort Totten Room, State Capitol

HB 1206
2/19/2015
#24152

☐ Subcommittee
Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to motor vehicle financial responsibility.

Minutes:

Attachment #1

Chairman Dan Ruby brought HB 1206 back before the committee. He stated that the main issue was insurance requirements. It seemed to reveal that the special mobile equipment, including Ag., weren't covered if they didn't have an auto policy, under existing requirements.

Evan Mandigo, State Executive for the Independent Insurance Agents of North Dakota: At the outset our entire effort with 1206 was to take special mobile equipment back to a liability policy. It was separated from a general liability policy ten years ago. We have been working with the stakeholders to get simple language that clearly defines that special mobile equipment is NOT subject to financial responsibility. We have been working with the State Insurance Department. As the law stands right now, Ag. equipment is subject to financial responsibility. We have written a simple two line statement that has been provided to you. It would be a brand new section of 39-16, the financial responsibility section of North Dakota statute. See attachment #1.

The situations that we are dealing with are the occasional and infrequent use of a piece of special mobile equipment, which the chapter defines as any self-propelled equipment that is not used primarily to haul people or property. There are many occasions that a piece of special mobile equipment will drive across or occupy a public road. Currently, under existing statute it has to be recognized by financial responsibility. The new section of 39-16 will allow that equipment to be excluded, but it will still have to be insured somehow. It could be by farm liability, general liability, or it could be an auto liability policy.

Chairman Dan Ruby: In this language do we need to anything that would say, "when on the roads"?

Evan Mandigo: I don't believe so.

Representative Lois Delmore: Do I have to rely on my insurance agent to make sure that he or she tells me the best coverage that I should have that would include the liability insurance?

Evan Mandigo: We would recommend that you consult with your insurance provider.

Representative Lois Delmore: How do you prove you have liability insurance?

Evan Mandigo: If law enforcement would come to the scene of an event, the officer would ask for proof of liability for the vehicle. If the driver didn't have it with them, they could get it from their agent and send it to them. That is the way that it works right now.

Representative Robin Weisz: Currently, I have a general liability insurance policy, am I **currently** covered with a piece of Ag. equipment on a highway? Can my insurer deny coverage if my piece of equipment is in an accident on the highway? Can they say it requires an auto policy and liability won't cover me for that?

Repetitive discussion.

Evan Mandigo: Right now, yes.

Chairman Dan Ruby: **Vice Chairman Lisa Meier** had a good idea. We may want to put an emergency clause on the bill.

Representative Lois Delmore: This simply requires liability insurance, if Representative Robin Weisz is in an accident with his combine, will he be covered.

Evan Mandigo: If we pass the amendment, yes, that is the intent. It broadens the available options to meet financial responsibility.

Rep. Mark Owens: But, not until August.

Evan Mandigo: Correct, there is no Emergency Clause on this bill. We would be delighted if the committee would choose to include that.

Chairman Dan Ruby: There is a lot of exposure out there. It would be worth doing.

Representative Gary Paur: I couldn't find the definition of " financial responsibility". I don't care for the wording of this.

Crystal Bartuska, North Dakota Insurance Department: Representative Robin Weisz, as far as your concern about your combine not being covered when you are going down a highway. You actually **could** cover it under a business auto policy. If we do this, it takes the special mobile equipment out of the financial responsibility bucket (auto policy) and puts it into a bucket of a different liability policy (CGLs, farm liability, personal auto, auto liability). That is really what the amendment is doing. The Department of Transportation does have some concerns on some potential penalties and how they would enforce it if a person doesn't have a CGL. We could have definite verbiage to you by the end of the day. The

Insurance Department would like to work with the Department of Transportation because this is their code. They know it the best. They would like to touch base with their attorneys to see how we would pull the penalty piece in.

Chairman Dan Ruby: Wouldn't the existing penalties for not having insurance apply?

Crystal Bartuska: I believe so, but I am not an attorney.

Chairman Dan Ruby: I had planned to get all of this out of committee this morning.

Representative Robin Weisz: We don't like to do this, but there is still time to fix it on the Senate side.

Rep. Mark Owens: Have we had this problem with these farmers running around out there for ten years, and if they had been in an accident could coverage have been denied?

Crystal Bartuska: That is correct. This would fix the gap.

Representative Gary Paur: I'd like to see a financial responsibility definition. I cannot find it.

Crystal Bartuska: I think that is an error on our part. I think financial responsibility piece is defined in another chapter, 39-01-01. We would have to change this to say, "As defined", and then put the appropriate chapter in.

Discussion of insurance requirements in Code.

Representative Lois Delmore: If I am moving a combine from field to field on a highway, and I cause an accident in which someone is significantly injured or killed, would the liability that I have through my farm insurance policy cover the injuries, or would I be personally responsible?

Mike Andering, North Dakota Insurance Department: If this amendment is in place, then the CGL policy **cannot** exclude it, so it **will be** covered under the CGL policy.

Financial responsibility discussion.

36:26

Crystal Bartuska: We are more than willing to work with the Department of Transportation to figure out if we need to change the proof of financial responsibility, or if we need to create a new section of chapter 39-16. At the end of the day we want to pull the special mobile equipment out of the auto policies and put them into a liability policy in some way.

Representative Robin Weisz: The amendment does exactly what it needs to do.

Rep. Mark Owens moved the amendments and included an emergency clause, see attachment #1. (15.0572.01001)

Representative Gary Paur seconded the motion.

A voice vote was taken. The motion carried.

Representative Gary Paur: "As defined", should that be "as referenced", because it is not in the definitions?

Chairman Dan Ruby: I think that will be a verbiage change that Legislative Council will do.

Vice Chairman Lisa Meier moved a DO PASS as amended on HB1206 with the emergency clause.

Representative Gary Paur seconded the motion.

Representative Chris Olson: Steve Becker had some verbiage that was missing in the current amendment. I am wondering if we should add that it should be a liability policy with limits equal to or higher than the minimum responsibility threshold. Right now the policy could be for \$1000.

Crystal Bartuska: We did see Mr. Becker's verbiage. At the end of his amendment it pulls it back into financial responsibility, and that pulls it back into the auto policy. That creates a problem.

Representative Chris Olson: How do we establish an appropriate level of coverage then?

Crystal Bartuska: Most, if not all, liability policies are not less than \$100,000 dollars. That would be higher than the minimum limits on an auto policy. We feel that the industry would regulate itself on that piece.

Representative Marvin Nelson: Am I protected if I am out on the road in my combine and hit by an uninsured motorist?

Mike Andring: Currently, you would be covered by UM and UIM for injuries that you incurred. If this amendment is passed, then it would fall under the CGL policy, and there would be no coverage for you under UIM. There may be some avenues that you could purchase that coverage, but the standard CGL policy would not.

Chairman Dan Ruby: Mark Nelson, what are your thoughts as far as the penalty side of this?

Mark Nelson, Department of Transportation: We want to work with the insurance industry. We didn't come in opposed to this bill. We just had concerns on making sure that we have the connection between liability, responsibility, and the enforcement of it. We want to ensure that people have it, and if they don't, there is a penalty.

Chairman Dan Ruby: Generally, the idea is that if it is under these certain sections, it is required and some of those provisions apply?

Mark Nelson: That is correct. 39-08-20 is the section of law that draws in the liability portion, where the enforcement comes in. As long as we can make that connection, we can work through that.

A roll call vote was taken: Aye 13 Nay 0 Absent 1
The motion carried.

Representative Robin Weisz will carry HB 1206.

February 19, 2015

dtg
2-19-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1206

Page 1, line 1, after "to" insert "create and enact section 39-16-38 of the North Dakota Century Code, relating to special mobile equipment and liability insurance; to"

Page 1, line 2, after "responsibility" insert "; and to declare an emergency"

Page 1, after line 8, insert:

"SECTION 2. Section 39-16-38 of the North Dakota Century Code is created and enacted as follows:

39-16-38. Special mobile equipment and liability insurance.

Special mobile equipment is not subject to financial responsibility as defined in this chapter. Special mobile equipment must be covered under a liability policy.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2-19-15
Date: Click here to enter a date.
Roll Call Vote #: "Enter Vote #" 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. "Enter Bill/Resolution No." HB 1206

House Transportation Committee

☐ Subcommittee

Amendment LC# or Description: 15.0572, 01001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations

Other Actions: ☐ Place on Consent Calendar
☐ Reconsider ☒ Emergency Clause

Motion Made By Owens Seconded By Paur

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby			Rep. Lois Delmore		
Vice Chair. Lisa Meier			Ben Hanson		
Rick C. Becker			Marvin E. Nelson		
Robert Frantsvog					
Kathy Hawken					
Christopher D. Olson					
Mark S. Owens					
Gary Paur					
Mike Schatz					
Gary R. Sukat					
Robin Weisz					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Attach #1

2-19-15
Date: Click here to enter a date.
Roll Call Vote #: "Enter Vote #" 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. "Enter Bill/Resolution No." HB1206

House Transportation Committee

☐ Subcommittee

Amendment LC# or Description: 15.0572.01001

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations

Other Actions: ☐ Place on Consent Calendar
☐ Reconsider ☒ Emergency Clause

Motion Made By Meier Seconded By Paur

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	X		Rep. Lois Delmore	X	
Vice Chair. Lisa Meier	X		Ben Hanson	X	
Rick C. Becker	X		Marvin E. Nelson	X	
Robert Frantsvog	A				
Kathy Hawken	X				
Christopher D. Olson	X				
Mark S. Owens	X				
Gary Paur	X				
Mike Schatz	X				
Gary R. Sukat	X				
Robin Weisz	X				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Weisz

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

REPORT OF STANDING COMMITTEE

HB 1206: Transportation Committee (Rep. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1206 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact section 39-16-38 of the North Dakota Century Code, relating to special mobile equipment and liability insurance; to"

Page 1, line 2, after "responsibility" insert "; and to declare an emergency"

Page 1, after line 8, insert:

"SECTION 2. Section 39-16-38 of the North Dakota Century Code is created and enacted as follows:

39-16-38. Special mobile equipment and liability insurance.

Special mobile equipment is not subject to financial responsibility as defined in this chapter. Special mobile equipment must be covered under a liability policy.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2015 SENATE TRANSPORTATION

HB 1206

2015 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1206

3/12/2015

Recording job number 24706

☐ Subcommittee ☐ Conference Committee

Committee Clerk Signature

Dore E. Reitz

Explanation or reason for introduction of bill/resolution:

To create and enact section 39-16-38 of the North Dakota Century Code, relating to special mobile equipment and liability insurance; to amend and reenact subsection 5 of section 39-16-01 of the North Dakota Century Code, relating to motor vehicle financial responsibility; and to declare an emergency.

Minutes:

Attachment: 3

Vice Chairman Casper opened the hearing on HB 1206, all committee members, except **Senator Campbell**, were present.

Evan Mandigo, State Executive, ND Association of Independent Insurance Agents, in favor of this bill, written testimony, attachment #1, This bill removes Special Mobile Equipment (SME-any vehicle not intended to haul people or property such as skid steer loaders, farm equipment, bulldozers and work over rigs) from the definition of a motor vehicle subject to financial responsibility and adds a new section to requiring liability coverage.

Senator Rust: what is the difference in coverage and cost?

Evan Mandigo: when coverage by business auto policy was required it was subject to whatever rates and filings an individual company makes for liability insurance, app. \$150/piece of equipment. For large contractors to correctly meet the existing requirements of financial responsibility in the state there has to be liability coverage for that equipment, by a business auto policy. It would be an additional cost, as the law stands now.

Senator Sinner: If in my SME I hit my neighbor's vehicle, what part of my policy covers that? How this bill changes that?

Evan Mandigo: Highway patrol, now, will ask you for proof of insurance; unless you have a business auto liability policy that specifically covers that vehicle you are not in compliance with existing financial responsibility law.

Senator Sinner right now nearly none of farmers would be covered? (Was told yes) this bill will fix the problem and put that liability back under general liability policy? (Was told yes)

Evan Mandigo this is only for the situations where you occasionally operate that mobile equipment.

Senator Rust what is the definition of financial responsibility?

Evan Mandigo financial responsibility requirement for insurance in ND requires that every vehicle subject to financial responsibility (everything that moves under its own power) is \$25-50K bodily injury and \$25K property damage. It is the minimum amount of liability insurance ND requires of people operating a vehicle on a public road. They only way to do that is with a specific business auto liability insurance coverage.

Chairman Oehlke gave background on origin of this situation (19:77 - 21:53)

Senator Sinner is my insurance card proof of financial responsibility? Should people driving an SME have a card on their vehicle?

Evan Mandigo: I doubt that type of card will be issued; the solution is to call your insurance agent and request evidence, you might get an electronic transfer certificate.

Steve Becher Executive Director, Professional Insurance Agents ND, representing over 300 independent insurance agents, request do pass, attached testimony #2 explaining the current situation. The problem is the definition of motor vehicle. Many self-propelled vehicles are not covered under auto policy: loaders, backhoes, farm tractors, snow blowers, etc...they are considered mobile equipment not licensed and not normally driven on roads so they are not covered under an auto policy. The contradiction between the definition on law and the customary way these types of mobile equipment are covered by the insurance industry creates a serious problem for the consumer at claim time. This bill fixes the problem by removing special mobile equipment from the definition of motor vehicle so these would not be required to carry auto insurance. We ask that in the Highway Patrol Amendment we don't tie the penalty to financial responsibility because then we would be back to where we are now.

Captain Eldon Mehrer, Commander, ND Highway Patrol, Motor Carrier Division, written testimony attached #3 his concern is that the current amendment does not address how law enforcement will take enforcement action if an owner/operator of any SME does not have insurance. The Highway Patrol and ND DOT are currently working on an amendment.

No additional testimony in favor, against or neutral, **Chairman Oehlke** closed the hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Transportation Committee Lewis and Clark Room, State Capitol

HB 1206

3/19/2015

Recording job number 25096

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature

Dore E. Perry

Explanation or reason for introduction of bill/resolution:

To create and enact section 39-16-38 of the North Dakota Century Code, relating to special mobile equipment and liability insurance; to amend and reenact subsection 5 of section 39-16-01 of the North Dakota Century Code, relating to motor vehicle financial responsibility; and to declare an emergency.

Minutes:

Attachment: /

Chairman Oehlke opened the discussion on HB 1206, all committee members were present.

Col. Michael Gerhart Jr., Superintendent ND Highway Patrol, introduced amendment, attachment #1, we don't have a preference as to what type of insurance vehicle has as long as it is insured when it goes down the roadway. The amendment addresses the penalty phase if they don't have insurance. We don't expect them to have with them the evidence of liability coverage; we give them 10 days to provide it.

Chairman Oehlke I suppose you request proof of insurance when there is an accident (was told yes)

Vice Chairman Casper the ten days and class B misdemeanor, is that in alignment with other areas of the code where we have similar penalties and timelines?

Col. Gerhart: the 10 days is more gracious than the section applied to motor vehicles.

Senator Rust: why secretary of state?

Col Gerhart: the amendment was drafted by risk management, to have a contractor's license they have to register with the secretary of state. I am not sure the reason.

NOTE: Col Gerhart verified with risk management and was told that in order for a contractor to be licensed they need to register with secretary of state and submit proof of insurance. Some contractors are not registered, licensed or insured. For consumer's protection municipal/district courts report these violations to the secretary of state who then follows up to make sure these contractors register and show proof of insurance.

Senate Transportation Committee

HB 1206

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Page 2

No additional discussion, meeting adjourned.

2015 SENATE STANDING COMMITTEE MINUTES

Transportation Committee Lewis and Clark Room, State Capitol

HB 1206
3/19/2015
Recording job number 25101

☐ Subcommittee ☐ Conference Committee

Committee Clerk Signature

Doris E. Perez

Explanation or reason for introduction of bill/resolution:

To create and enact section 39-16-38 of the North Dakota Century Code, relating to special mobile equipment and liability insurance; to amend and reenact subsection 5 of section 39-16-01 of the North Dakota Century Code, relating to motor vehicle financial responsibility; and to declare an emergency.

Minutes:

Attachments: 0

Chairman Oehlke opened the discussion on HB 1206, all committee members were present. We had our answer to our secretary of state question regarding last sentence of amendment.

Senator Sinner moved to adopt amendment #1

Vice Chairman Casper seconded

Voice vote: all said aye

Vice Chairman Casper moved do pass as amended

Senator Sinner seconded

No further discussion

Roll call vote was taken: Yes 6 No 0 Absent 0

Carrier: Senator Rust

JP
3/19/15

March 19, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1206

Page 1, line 4, after the semicolon insert "to provide a penalty;"

Page 1, line 13, after "insurance" insert "**- Report - Penalty**"

Page 1, line 14, replace "defined in" with "required under"

Page 1, line 15, after the underscored period insert "Failure to provide satisfactory evidence of liability coverage required under this section within ten days after a police officer has requested evidence of such liability coverage is an infraction for a first offense and a class B misdemeanor for a second or subsequent offense. A municipal court or district court shall make a report of a violation of this section to the secretary of state for any special mobile equipment owned or operated by a contractor licensed under chapter 43-07."

Renumber accordingly

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
HB BILL NO. 1206**

Senate TRANSPORTATION Committee

☐ Subcommittee

Amendment LC# or Description: #1

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 Senator Sinner Seconded By Vice Chairman Casper

Senators	Yes	No	Senators	Yes	No
Chairman Oehlke			Senator Axness		
Vice Chairman Casper			Senator Sinner		
Senator Campbell					
Senator Rust					
VOICE VOTE: ALL IN FAVOR					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

To address the penalty phase in case of not having insurance

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
HB BILL NO. 1206**

Senate TRANSPORTATION Committee

☐ Subcommittee

Amendment LC# or Description: 15.0572.02001

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 Vice Chairman Casper Seconded By Senator Sinner

Senators	Yes	No	Senators	Yes	No
Chairman Oehlke	X		Senator Axness	X	
Vice Chairman Casper	X		Senator Sinner	X	
Senator Campbell	X				
Senator Rust	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Rust

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

REPORT OF STANDING COMMITTEE

HB 1206, as engrossed: Transportation Committee (Sen. Oehlke, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1206 was placed on the Sixth order on the calendar.

Page 1, line 4, after the semicolon insert "to provide a penalty;"

Page 1, line 13, after "insurance" insert "- Report - Penalty"

Page 1, line 14, replace "defined in" with "required under"

Page 1, line 15, after the underscored period insert "Failure to provide satisfactory evidence of liability coverage required under this section within ten days after a police officer has requested evidence of such liability coverage is an infraction for a first offense and a class B misdemeanor for a second or subsequent offense. A municipal court or district court shall make a report of a violation of this section to the secretary of state for any special mobile equipment owned or operated by a contractor licensed under chapter 43-07."

Renumber accordingly

2015 CONFERENCE COMMITTEE

HB 1206

2015 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1206
4/6/2015
#25815

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature

Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to motor vehicle financial responsibility.

Minutes:

Chairman Owens brought the Conference Committee to order.

Senator Rust: We took the House version of HB1206 and added an amendment brought to us by the Highway Patrol. Their concern was that it did not address how law enforcement would take action if one of the operators/owners of special mobile equipment didn't have insurance. If there was no insurance, then they wanted to know what the penalty would be. The amendment that we did could be termed the penalty phase. It gives them ten days to provide proof of insurance. The first offense is an infraction. The second one is a Class B misdemeanor, and then the municipal court is to send a report of that to the Secretary of State. The ten days is more generous than what it is for motor vehicles. If they don't have insurance, then they need to send a report to the Secretary of State because it is the Secretary of State that a contractor is licensed with. They will make sure the contractors are registered and have proof of insurance.

Representative Lois Delmore: Does that mean the Secretary of State will have the power to something more after the second offense? Is that the intent?

Senator Rust: I think they contact the Secretary of State with the first offense because they are the ones that license the contractors. They have to have insurance or their license will be revoked or not approved when they come up for renewal.

Vice Chairman Lisa Meier: When you put the language of infraction on in your committee, did you think that up to a thousand dollar fine is too much for a first time offense?

Senator Rust: I used a personal example in our committee. My daughter was in two accidents, and it wasn't her fault either time. Both times the other party did not have insurance, and my insurance had to pay. **Everyone** needs to have insurance! It is a maximum penalty of \$1000. More than likely they won't receive that the first time.

Vice Chairman Lisa Meier: Did the Highway Patrol actually testify in the House committee?

Senator Rust: Yes, they did. It was Captain Eldon Mehrer.

Vice Chairman Lisa Meier: I don't remember that they brought forward any thoughts on an infraction for the first offense.

Tom Iverson, Safety and Education Officer for the North Dakota Highway Patrol: Regarding infractions for the first offense that would be consistent with Century Code 39-0820, driving without liability insurance for a passenger motor vehicle.

Vice Chairman Lisa Meier: Did you bring that language forward in the House?

Tom Iverson: I don't remember. However, when it was first offered that they do need to obtain liability insurance, there was no enforcement action or punishment that was attributed to that. We felt that there needed to be some sort of penalty for driving without liability insurance.

Vice Chairman Lisa Meier: I have some concerns because that discussion was not held in the House. It is something that we need to look into. An infraction has a pretty large fine. There could be an inconsistency in the fine. Some areas might charge less and others might charge \$1000. That is of concern to me.

Tom Iverson: The infraction for the first time offense is consistent for what it would be for driving in a passenger motor vehicle. So, we think it should be the same for special mobile equipment.

Chairman Owens: The issue that caused the Do Not Concur initially was current Code 38-08-20 currently says that violation of Subsection 1 is an infraction. The Senate's imposed must include a fine of at least \$150, which may be suspended. A person convicted of a second or subsequent violation of driving without liability within a three year period must be fined at least \$300 which may not be suspended. The issue was that this amendment from the Senate changed the second and subsequent offense to Class B misdemeanor **forever**, there was no "three years".

The second issue is that SB 2011 changes the whole process. It has passed both the House and the Senate. It changes the violation of Subsection 1 (39-0820) to \$150 for the first violation and \$300 for the second and subsequent **within three years**. That was the issue, and what we were focused on. Section 1 of the bill is defining motor vehicles which is referenced to in Section 4, 0820. It says that this term does not include special mobile equipment. We have no objections to the part being in there about requiring proof. We have no objection about the ten days. The issue that we had problems with is that the second and subsequent offense is forever. Since it is being changed in another bill (08-20), we just thought they should match.

Senator Rust: Do you have an amendment?

Chairman Owens: I haven't gotten it properly worded, but if that sounds reasonable to you, I will get an amendment put together.

Senator Rust: I understand your concern about a second infraction fifteen years later and the penalty being so severe. We would be willing to look at that.

Chairman Owens: Very good.

Senator Rust: You have no trouble with the ten days and having to show proof of insurance during that time period, correct?

Chairman Owens: No, we don't, if you are required to have liability insurance, you should be able to prove that you have the insurance. We just think that it should be the same throughout the entire code.

Senator Rust: Your issue is with the infraction and the Class B misdemeanor, and mostly with the second and subsequent offense, right?

Chairman Owens: Yes.

Senator Rust: If you are looking at some kind of amendment about that, we are willing to talk about that.

Senator Campbell: Are you okay with up to \$1000 dollars, as well? Or aren't you sure?

Vice Chairman Lisa Meier: I would like to look at that. I believe that \$1000 is a bit high. I would rather have a set maximum rather than a \$1000 infraction.

Representative Lois Delmore: This is about special mobile equipment. A lot of these machines are from big companies who really need to take our laws seriously and for their own protection should carry the liability. It sounds like that part of it is in current Code. We probably didn't discuss it because current Code already covered it. I am not terribly uncomfortable with the infraction. A lot of the time the judges are not going to give the maximum the first time something happens.

I do agree with Senator Owens that the misdemeanor that goes on forever, might be going too far.

Senator Rust: You quoted about infraction - \$150 the first time. Where were you getting that from?

Chairman Owens: It was from 39-08-20 and is written currently in law. It says "at least \$150", so it could go up to \$1000 right now. However, SB 2211 changes that to the violation now being strictly "\$150 for the first offense, and \$300 for the second and subsequent within 3 years." So, the maximum is already in 2211, Representative Meier. We are trying to match 2211, which would do exactly what Representative Meier is suggesting. This bill doesn't match up unless we correct it.

Vice Chairman Lisa Meier: Thank you for the explanation.

Senator Rust: I would like to look at your suggestion, and I understand your concern.

Senator Campbell: It sounds like we are getting close, if we match the penalty in 2211.

Chairman Owens: I will talk to Legislative Council about the amendment.

We will adjourn and reschedule another meeting.

2015 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee Fort Totten Room, State Capitol

HB 1206
4/7/2015
#25882

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature

Jeannette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to motor vehicle financial responsibility.

Minutes:

Attachment #1

Chairman Owens brought HB 1206 before the committee.

He explained the amendments. This will provide for a penalty as the Senate wanted to do. It will also add fines of \$150 for the first infraction and \$300 for the second or subsequent infraction **in three years**. See attachment #1. (15.0572.02002)

Representative Meier: On Page 1 Line 15 the wording of "special" is replaced with "however special". Why is that?

Chairman Owens: It is just a language correction.

Senator Rust moved that the Senate recede from Senate amendments and HB 1206 be amended as follows (15.0572.02002).

Senator Axness seconded the motion.

Representative Lisa Meier: I think this is exactly what we intended to do. It is a good amendment.

Senator Rust: If there is third, fourth, or fifth infraction, would the fine always be \$300?

Chairman Owens: That is true if it is within the three years. If it is after three years, then the process will start over. That is the way that it is generally adjudicated and is written right now.

Representative Meier: I doubt that this is something that would happen very often with special mobile equipment being moved by big companies.

Senator Rust: There will also be a report to the Secretary of State. If they get a few of these, there may be a problem with getting a contractor's license after that.

A roll call vote was taken on SB 1206.

House Aye 2 Nay 0 Absent 1

Senate Aye 3 Nay 0 Absent 0

The motion carried.

8/2
4/7/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1206

That the Senate recede from its amendments as printed on page 1132 of the House Journal and pages 869 and 870 of the Senate Journal and that Engrossed House Bill No. 1206 be amended as follows:

Page 1, line 1, replace "39-16-38" with "39-08-20.2"

Page 1, line 4, after the semicolon insert "to provide a penalty;"

Page 1, line 11, replace "39-16-38" with "39-08-20.2"

Page 1, line 13, replace "39-16-38" with "39-08-20.2"

Page 1, line 13, after "insurance" insert "- Report - Penalty"

Page 1, line 14, replace "financial responsibility as defined in this chapter" with "the requirement of a motor vehicle liability policy under section 39-08-20"

Page 1, line 15, replace "Special" with "However, special"

Page 1, line 15, after the underscored period insert "Failure to provide satisfactory evidence of liability coverage required under this section within ten days after a police officer has requested evidence of liability coverage is an infraction punishable solely by a fine of one hundred fifty dollars for a first violation and is an infraction punishable solely by a fine of three hundred dollars for a second or subsequent violation in three years. A municipal court or district court shall make a report of a violation of this section to the secretary of state for any special mobile equipment owned or operated by a contractor licensed under chapter 43-07."

Renumber accordingly

4/7/15

Date:
Roll Call Vote #: 12015 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1206 as (re) engrossed

House "Enter committee name" Committee

- Action Taken ☐ HOUSE accede to Senate Amendments
☐ HOUSE accede to Senate Amendments and further amend
☐ SENATE recede from Senate amendments
☒ SENATE recede from Senate amendments and amend as follows

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

15,0572,0200.

Motion Made by: Rust Seconded by: Axness

Representatives	4/6	4/7		Yes	No		Senators	4/6	4/7		Yes	No
Chairman Owens	X	X		X			Senator David S. Rust	X	X		✓	
Representative Lisa Meier	X	X		X			Senator Tom Campbell	X	X		X	
Representative Lois Delmore	X	A		A			Senator Tyler Axness	A	X		X	
Total Rep. Vote							Total Senate Vote					

Vote Count Yes: 5 No: 0 Absent: 1House Carrier No Carrier Senate Carrier No CarrierLC Number 15.0572.02002 of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HB 1206, as engrossed: Your conference committee (Sens. Axness, Campbell, Rust and Reps. Delmore, Meier, Owens) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1132, adopt amendments as follows, and place HB 1206 on the Seventh order:

That the Senate recede from its amendments as printed on page 1132 of the House Journal and pages 869 and 870 of the Senate Journal and that Engrossed House Bill No. 1206 be amended as follows:

Page 1, line 1, replace "39-16-38" with "39-08-20.2"

Page 1, line 4, after the semicolon insert "to provide a penalty;"

Page 1, line 11, replace "39-16-38" with "39-08-20.2"

Page 1, line 13, replace "**39-16-38**" with "**39-08-20.2**"

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Page 1, line 15, replace "Special" with "However, special"

Page 1, line 15, after the underscored period insert "Failure to provide satisfactory evidence of liability coverage required under this section within ten days after a police officer has requested evidence of liability coverage is an infraction punishable solely by a fine of one hundred fifty dollars for a first violation and is an infraction punishable solely by a fine of three hundred dollars for a second or subsequent violation in three years. A municipal court or district court shall make a report of a violation of this section to the secretary of state for any special mobile equipment owned or operated by a contractor licensed under chapter 43-07."

Renumber accordingly

Engrossed HB 1206 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

HB 1206

HB 1206
2-12-15
#1

1 of 2

TESTIMONY ON HOUSE BILL 1206
~~TRANSPORTATION~~
HOUSE INDUSTRY BUSINESS & LABOR COMMITTEE
~~DAN RUBY~~
REPRESENTATIVE GEORGE KEISER, CHAIRMAN
9 AM FEBRUARY 12

Good Morning Mr Chairman and members of the House IBL committee. My name is Evan Mandigo and I am the State Executive for the Independent Insurance Agents of North Dakota. I am here today to testify in favor of House Bill 1206.

This legislation is proposed to correct what is what we believe is an unintended consequence starting in 2004 when the Insurance Services Office (ISO), the filing organization for virtually all the insurance forms approved for use in the country, made a change to the Commercial General Liability (CGL) policy as it relates to Special Mobile Equipment defined by the Century Code at 39-01-01.81. I am including the definition since it provides a framework for the rest of the testimony.

"Special mobile equipment "means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway. (Think backhoes, Bobcats, and even oil field work over rigs)

The new CGL language in 2004 moved liability coverage for Special mobile equipment to the Business Auto Policy (BAP) if it was subject to registration or financial responsibility. For 40 years prior to the change, liability insurance for special mobile equipment was efficiently handled by the CGL policy. Since special mobile equipment is rarely subject to registration, the Financial Responsibility provision in Chapter 39-16 has created an unusual liability insurance situation. This legislation eliminates any distinction between registration and financial responsibility for special mobile equipment.

The definition being clarified (39-16-01.5) says in part that a motor vehicle is every self-propelled vehicle which can be read as including special mobile equipment since it is quite often self-propelled. Under this interpretation special mobile equipment is a vehicle and subject to financial responsibility rules. This creates the need for each and every piece of special mobile equipment be added to the BAP for a charge to cover incidental and occasional operation on a public road in order to avoid unintended uninsured situations for the general public.

Incidental and occasional operation on a public road of special mobile equipment was covered by the CGL until 2004. The 8 words added to the definition of Motor vehicle excludes such equipment from the definition and puts it back in the CGL for liability where it had been for 40 years.

#1 HB 1206
2-12-15

2 of 2

The proposed legislation does not change the requirement that a vehicle used to move people or property on a public highway (39-01-01.101) is properly insured. The legislation clarifies special mobile equipment is not a vehicle according to Chapter 39 and therefore not subject to Financial Responsibility regulations.

We have had conversations with the Department of Transportation and a representative of the carrier community regarding this change. DOT would be best equipped to articulate their position which I am told is one of neutrality. The carrier community has not expressed any concern to us either.

We believe this small change will bring much needed clarity to a murky situation both for the general public and policyholders. Our national association has been working since 2004 for a country wide form change with little success. Many states have also enacted curative legislation similar to 1206.

Our Association strongly urges the committee adopt a Do Pass recommendation.

Thank you Mr Chairman and members of the committee, this concludes my testimony and I am happy to answer your questions.

Testimony for HB 1206 – ND House IBL Committee

Chairman Ruby and members of the House Transportation Committee for the record my name is Steve Becher and I am Executive Director of the Professional Insurance Agents of ND. PIA of ND represents over 300 main street insurance agencies with over 1000 agents across the state of North Dakota. I am providing testimony today and asking you for a Do Pass recommendation on House Bill **1206**.

Section 39-16 of the North Dakota Century Code is the section that mainly deals with making sure that the vehicles that are traveling our roadways have auto insurance and at least the minimum financial responsibility limits of \$25,000 per person/\$50,000 per accident/\$25,000 property damage to compensate for damages that they may cause to others. The potential problem with the law is in the definition of motor vehicle. This section defines "motor vehicle" as every self-propelled vehicle, including trailers and semitrailers designed for use with such vehicles. In other words, current law states that every self-propelled vehicle must carry auto insurance with the minimum financial responsibility limits. The problem lies in the fact that there are many self-propelled vehicles that are not typically covered under an auto policy such as loaders, backhoes, farm tractors, snow blowers, lawn tractors, etc. These types of vehicles are considered mobile equipment as they are not licensed and are not normally driven on roads so they are covered under a general liability, farm liability, or personal liability policy instead of an auto insurance policy. These types of policies have an occurrence limit of typically \$100,000 or higher but do not have the per person/per

#2 HB1206
2-12-15

2 of 2

accident/property damage notations required under the financial responsibility law. This contradiction between the definition in the law and the customary way that these types of mobile equipment are covered by the insurance industry could create a serious problem for the consumer at claim time if the insurance company were to determine that due to the definition in the law the insured should have had auto insurance instead of general liability so there is no coverage.

House Bill 1206 fixes this problem very simply by removing "special mobile equipment" from the definition of "motor vehicle" under this section so that these types of equipment would not be required to carry auto insurance. "Special mobile equipment" is defined elsewhere in the motor vehicle code as every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway. These types of equipment would still have liability coverage through other types of policies, but would not be considered motor vehicles under the law.

In the interest of cleaning up this contradiction between the financial responsibility law and the current way these types of equipment are typically insured, I would urge a "Do Pass" on House Bill 1206.

HB1206
2-12-15
#3

House Bill 1206
House Transportation Committee
Rep. Dan Ruby, Chairman
February 12, 2015

Mr. Chairman, members of the House Transportation Committee, my name is Captain Eldon Mehrer, commander of the North Dakota Highway Patrol's motor carrier division. I am here to provide neutral testimony regarding House Bill 1206.

This bill involves a simple definition change to "motor vehicle" within North Dakota Century Code 39-16-01. The modification to this definition excludes special mobile equipment from being considered a motor vehicle.

Our concern is this change would potentially allow special mobile equipment to be operated on our roadways without liability insurance. Our state has a number of work-over rigs and cranes traveling hundreds of miles on our roadways. Not having insurance would be troublesome.

As long as these companies have the appropriate commercial general liability insurance or liability insurance, our concerns are alleviated; however, if special mobile equipment is removed from the definition of a motor vehicle, these cranes and work-over rigs may not be required to have liability insurance.

This concludes my testimony. I would be happy to answer any questions.

HB 1206
2-12-15
#4

HOUSE TRANSPORTATION COMMITTEE
February 12, 2015; 9:00 AM, Ft. Totten Room

North Dakota Department of Transportation
Mark Nelson, Deputy Director Driver-Vehicle Services

HB1206

Good morning, Mr. Chairman and members of the committee, my name is Mark Nelson and I serve as the Deputy Director for Driver and Vehicle Services within the North Dakota Department of Transportation.

HB 1206 if passed will exempt special mobile equipment (SME) from North Dakota financial responsibility laws. SMEs are currently recognized as motor vehicles in century code and are required to be insured while operating on a roadway. In discussions with Mr. Mandigo, we were informed that the purpose of this bill would be to allow for these vehicles to now be covered by a Commercial General Liability policy versus having an additional policy specific to SME's.

The end result of this bill as written will allow SMEs to be covered by a Commercial General Liability policy, but because they will no longer be required to have insurance while operating on a roadway, there will be no consequence for those who either choose not to get insurance or those who may have a gap in coverage.

NDCC pertaining to the offense of Driving without liability insurance prohibited can be found in section 39-08-20.

Mr. Chairman that concludes my testimony and I would be more than happy to answer any questions that you may have.

HB1206
2-19-15
#1

New Section

39-16-38

Special Mobile Equipment is not subject to financial responsibility as defined in this chapter. Special Mobile Equipment must be covered under a liability policy.

#1-1

TESTIMONY FOR HB 1206
SENATE TRANSPORTATION COMMITTEE
SENATOR DAVE OEHLKE, CHAIRMAN
MARCH 12, 2015

Good morning Chairman Oehlke and members of the Senate Transportation Committee. My name is Evan Mandigo, State Executive of the ND Association of Independent Insurance Agents. I am here to testify in favor of HB 1206 currently under consideration by the Senate Transportation Committee.

The background of this legislation started 11 years ago when the Insurance Services Office (ISO), who writes policy forms for most insurance policies sold in nationwide including ND, changed how liability insurance covers Special Mobile Equipment. SME is any vehicle not intended to haul people or property. Common examples include skid steer loaders, farm equipment, bulldozers, and work over rigs.

Until 2004 all liability for SMEs was covered by the liability policy associated with a business for occasional and infrequent use of a road. In 2004, this changed when new ISO policy language excluded liability if an SME was subject to financial responsibility. This made auto liability insurance the only option available to correctly meet financial responsibility requirements.

HB 1206 changes this back by removing SMEs from the definition of a motor vehicle subject to financial responsibility and adding a new section to requiring liability coverage. If passed, liability insurance must be provided by Commercial General Liability, Farm Liability, or similar liability insurance when an SME uses a public road. Evidence of such coverage is readily available from their agent or insurance provider.

Passage of HB 1206 cures a large and potentially unknown coverage gap for users of SMEs unaware of the current need for separate Auto insurance. The public is

HB 1206
3/12/15
#1-2

better protected in case someone is involved in a crash with the operator of an SME. Many states have made this change back including MN.

HB 1206 allows liability coverage for SMEs to return to the liability policies used for coverage until 2004 and not require separate Auto Liability coverage as the only option. No one is excused from the need to provide liability insurance. HB 1206 just expands the available options. An emergency clause was added by the House.

This concludes my testimony and I would be happy to respond to the committee's questions.

#2-1
3-12-15

Testimony for HB 1206 – ND House IBL Committee

Chairman Oehlke and members of the Senate Transportation Committee for the record my name is Steve Becher and I am Executive Director of the Professional Insurance Agents of ND. PIA of ND represents over 300 main street insurance agencies with over 1000 agents across the state of North Dakota. I am providing testimony today and asking you for a Do Pass recommendation on House Bill **1206.**

Section 39-16 of the North Dakota Century Code is the section that mainly deals with making sure that the vehicles that are traveling our roadways have auto insurance and at least the minimum financial responsibility limits of \$25,000 per person/\$50,000 per accident/\$25,000 property damage to compensate for damages that they may cause to others. The potential problem with the law is in the definition of motor vehicle. This section defines "motor vehicle" as every self-propelled vehicle, including trailers and semitrailers designed for use with such vehicles. In other words, current law states that every self-propelled vehicle must carry auto insurance with the minimum financial responsibility limits. The problem lies in the fact that there are many self-propelled vehicles that are not typically covered under an auto policy such as loaders, backhoes, farm tractors, snow blowers, lawn tractors, etc. These types of vehicles are considered mobile equipment as they are not licensed and are not normally driven on roads so they are covered under a general liability, farm liability, or personal liability policy instead of an auto insurance policy. These types of policies have an occurrence limit of typically \$100,000 or higher but do not have the per person/per

accident/property damage notations required under the financial responsibility law. This contradiction between the definition in the law and the customary way that these types of mobile equipment are covered by the insurance industry could create a serious problem for the consumer at claim time if the insurance company were to determine that due to the definition in the law the insured should have had auto insurance instead of general liability so there is no coverage.

House Bill 1206 fixes this problem very simply by removing "special mobile equipment" from the definition of "motor vehicle" under this section so that these types of equipment would not be required to carry auto insurance. "Special mobile equipment" is defined elsewhere in the motor vehicle code as every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway. The bill goes on to say that mobile equipment must be covered by a liability policy while being operated on our roads. These types of equipment would still have liability coverage through other types of policies, but would not be considered motor vehicles under the law and be required to carry auto insurance.

In the interest of cleaning up this contradiction between the financial responsibility law and the current way these types of equipment are typically insured, I would urge a "Do Pass" on House Bill 1206.

#3

House Bill 1206
Senate Transportation Committee
Senator Dave Oehlke, Chairman
March 12, 2015

Mr. Chairman, members of the Senate Transportation Committee, my name is Captain Eldon Mehrer, commander of the North Dakota Highway Patrol motor carrier division. I am here to testify neutral regarding House Bill 1206.

This bill involves a definition change to "motor vehicle" within North Dakota Century Code 39-16-01. The modification to this definition excludes special mobile equipment from being considered a motor vehicle.

Our concern is the current amendment does not address how law enforcement will take enforcement action if an owner/operator of any special mobile equipment does not have insurance. The Highway Patrol and ND DOT are currently working on an amendment to address this concern. However, the amendment is not ready for today's testimony.

Our state has a number of work-over rigs and cranes traveling hundreds of miles on our roadways. These vehicles are considered special mobile equipment by definition and it is important they have insurance. If they do not have proper insurance, it is important for law enforcement to be able to take the necessary enforcement action.

This concludes my testimony. I would be happy to answer any questions.

|

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1206 3-19-15

Page 1, line 4, after the semicolon, insert: to provide a penalty;

Page 1, line 14, replace "defined" with "required"

Page 1, line 15, after the period insert:

Failure to provide satisfactory evidence of liability coverage required under this section within ten days after a police officer has requested evidence of liability coverage is an infraction for a first offense and a class B misdemeanor for a second or subsequent offense. A municipal court or district court shall make a report of a violation of this section to the secretary of state for any special mobile equipment owned or operated by a contractor as defined in subsection 1 of section 43-07-01.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1206

That the Senate recede from its amendments as printed on page 1132 of the House Journal and pages 869 and 870 of the Senate Journal and that Engrossed House Bill No. 1206 be amended as follows:

Page 1, line 1, replace "39-16-38" with "39-08-20.2"

Page 1, line 4, after the semicolon insert "to provide a penalty;"

Page 1, line 11, replace "39-16-38" with "39-08-20.2"

Page 1, line 13, replace "**39-16-38**" with "**39-08-20.2**"

Page 1, line 13, after "insurance" insert "**- Report - Penalty**"

Page 1, line 14, replace "financial responsibility as defined in this chapter" with "the requirement of a motor vehicle liability policy under section 39-08-20"

Page 1, line 15, replace "Special" with "However, special"

Page 1, line 15, after the underscored period insert "Failure to provide satisfactory evidence of liability coverage required under this section within ten days after a police officer has requested evidence of liability coverage is an infraction punishable solely by a fine of one hundred fifty dollars for a first violation and is an infraction punishable solely by a fine of three hundred dollars for a second or subsequent violation in three years. A municipal court or district court shall make a report of a violation of this section to the secretary of state for any special mobile equipment owned or operated by a contractor licensed under chapter 43-07."

Renumber accordingly