

2015 HOUSE TRANSPORTATION

HB 1391

2015 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee Fort Totten Room, State Capitol

HB1391
2/6/2015
#23415

☐ Subcommittee
Conference Committee

Committee Clerk Signature

Janette Cook

Explanation or reason for introduction of bill/resolution:

"Click here to type reason for introduction of bill/resolution"

Minutes:

Attachments #1-2

Chairman Dan Ruby opened the hearing on HB1391.

Representative Hunsakor, District 6, introduced HB1391. He provided written testimony which explained the intent of the bill. See attachment #1.

Representative Lois Delmore: Did this gentleman have liability insurance on his other vehicles?

Representative Hunsakor: Yes, he had proper insurance on his other vehicles. He just decided one day on the spur of the moment to get tires on this car and drove it to a shop.

Representative Marvin Nelson: When you have to provide proof of insurance for three years, do you have to pay for the three years of insurance in order to have that proof?

Representative Hunsakor: Yes, he had to pay that higher rate for ALL of his vehicles for three years.

Rep. Mark Owens: How long had he owned this vehicle when he drove it and got stopped?

Representative Hunsakor: I didn't ask him, but I think it was a short period of time. I don't know for sure. I would say under six months.

Rep. Mark Owens: Normally, your insurance company will cover you for the first thirty days, but if it was longer than that, he wouldn't be covered.

Rep. Mark Owens: I would read this to say that you just have to show proof annually for each of the three years. Are you saying that the Department of Transportation says that you have to have the proof of insurance three years into the future?

Representative Hunsakor: I would defer that to Glenn Jackson.

There was no further support for HB1391.

Jeff Evink, Professional Insurance Agents of North Dakota, spoke to oppose HB1391. He provided written testimony. See attachment #2.

Vice Chairman Lisa Meier: Do you know what neighboring states require in reference to this?

Jeff Evink: I do not. I could find out.

Chairman Dan Ruby: What is an SR22?

Jeff Evink: You have to find a company that is willing to write you, and then they will provide the SR22 requirement that shows proof that the person has the minimum requirements in the state.

Chairman Dan Ruby: Sometimes people only keep insurance on some vehicles for part of a year. Sometimes they might forget that the insurance is off. I don't think that it always intentional.

Jeff Evink: I think that is correct. We are trying to come up with a good way to remind our insured to put coverage back on a vehicle.

Representative Lois Delmore: Would you support a bill that would require **everyone** to show proof when they apply for their registration **every year**?

Jeff Evink: I think that it is a good idea. I don't know if it is reasonable for the Department of Transportation to keep track of without researching it more.

Representative Gary Paur: When we dropped the DUI requirement down to one year, you would have probably rather had us leave that at three years and drop this one, am I correct?

Jeff Evink: Yes, you are 100% correct.

There was no further testimony in opposition to HB1391.
There was no further testimony on HB 1391.

Glenn Jackson, Department of Transportation, stood for questions.

Representative Robin Weisz: If someone has several vehicles and one needs proof of liability, what if the person doesn't register that vehicle for the next three years? Does he still have to keep the liability on the vehicle even if he doesn't register it?

Glenn Jackson: Yes, that is the way that the statute reads. You have to show proof of future financial responsibility for three years. It gets into a touchy area. If you don't own a

vehicle, then you have nothing to drive, and you don't need a license. You still have violated the no liability insurance, and now we have a requirement to maintain proof of liability insurance for three years. Can you take it off and then put it back on? If we get notification from the insurance company that insurance has been withdrawn from that vehicle, they suspend your license.

Representative Robin Weisz: If I have a lot of vehicles and have insurance on all of them except the one that I was driving at the time of the violation, and I don't drive it, can they still suspend my license?

Glenn Jackson: If you sell the vehicle, you still have to maintain proof of liability on all of your vehicles for three years. We have individuals that have no vehicles, but they can still maintain an insurance policy that covers them anytime they drive any other vehicle

Representative Robin Weisz: Based on your last statement, the proof of liability doesn't have to stay with the vehicle? I just have to have proof of liability insurance?

Glenn Jackson: There are a lot of different scenarios. It depends what the violation was, what convictions we get, or driving without liability insurance. We have to have proof of liability insurance. We don't have to have a SR22s; that isn't in statute. If you have six vehicles that are insured, and one that isn't, that vehicle has to be insured. If you sell that vehicle, you still have to maintain proof of liability insurance for three years for ALL of your vehicles.

Representative Robin Weisz: The only way that I can take it off of the one is to sell it, even if it is not registered?

Glenn Jackson: You are still at the point of having to maintain the proof of liability. We are looking at the driver, not at the vehicle. The driver has to maintain the proof of liability insurance.

Representative Robin Weisz: The conviction is with the driver, correct?

Glenn Jackson: Yes, we only work with the driver. It is complicated, and we have to go case by case to make sure we get the right answer to the question.

Representative Chris Olson: The code does not say anything about a certain vehicle; it just states that the driver must provide proof of liability insurance. Why is it that you have this Vehicle A or Vehicle B policy?

Glenn Jackson: Most of the time when we get information from the courts it involves an accident. An accident will have a VIN number that goes specifically with the vehicle. Then we track it to that VIN number for that vehicle. For a conviction of driving without liability insurance, and there is no vehicle associated with that, we have to now track the individual driver for three years. There are different ways that we have to pursue it, depending on what information we get from the court.

Representative Chris Olson: The law only requires that they provide proof of liability insurance of some kind, not proof for that specific car, correct?

Glenn Jackson: The law requires we have to have proof of liability insurance for that period of time. How that is interpreted by insurance group and how they want people to provide us that information is different. **We** require evidence of liability insurance for three years, **and** it has to be with that person and any vehicle that they are driving.

Continued discussion.

Representative Marvin Nelson: How much time is the department spending keeping track of this liability insurance?

Glenn Jackson: We process about 22,000 - 25,000 a year. It is a little more than one person's full time job to track SR22s and SR26s to make sure the records are kept up to speed.

Representative Marvin Nelson: Do you have any idea how much that would be reduced if we drop this from three years to one year?

Glenn Jackson: I'm assuming that if you drop two-thirds of the requirement, it would drop at least two-thirds to one-half of the number of SR22 that we receive. That would mean about 10,000 - 12,000 each year.

Representative Lois Delmore: Do you know what they do in surrounding states?

Glenn Jackson: I don't know how many years; I just know they have to prove financial responsibility.

Rep. Mark Owens: I have the car stored for the winter and forget to put my sticker on the car when I drive it in the spring. Do I have 20 days to prove that I have insurance?

Glenn Jackson: Yes, you do have time. Call us and give us the information that will verify the proof of insurance.

There was no further discussion on HB1391.
The hearing was closed on HB1391.

2015 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB1391
2/12/2015
#23745

☐ Subcommittee
Conference Committee

Committee Clerk Signature

Jeannette Cook

Explanation or reason for introduction of bill/resolution:

A BILL relating to a certificate of insurance for driving without liability insurance.

Minutes:

Chairman Dan Ruby brought HB 1391 back before the committee and reviewed the bill.

Representative Robin Weisz: It seems like there was some confusion as I discussed this with Glenn Jackson. I'm not sure that we can clarify it, but at least it is down to one year on the proof of liability.

Chairman Dan Ruby: The real issue was that someone was a driver, but didn't own the vehicle and was pulled over for no insurance. Then, the proof of insurance needed to be kept on the vehicle, and the driver couldn't get their license back if the owner didn't keep insurance on that vehicle.

Representative Robin Weisz: Once they told us that it is the vehicle that has to be insured. Then on the other hand it will work for the driver to have proof of liability even if he doesn't own a vehicle. It seems to be in conflict.

More discussion on the confusion.

Chairman Dan Ruby: **Representative Hunskor** seemed willing to let us fix some of the inconsistencies, but I don't know that we have an easy fix either.

Representative Robin Weisz: You would have to separate the liability from the vehicle.

Representative Lois Delmore: We could encourage **Rep. Hunskor** to do some type of study resolution in the interim, so they had time to look at all the parts of the code and see if changes are necessary. I don't think our intent was to ever follow the vehicle. It was to make sure that anyone who is an accident and doesn't have liability, better have it the next time they are stopped. It wouldn't have to be the same vehicle.

Rep. Mark Owens: The bill is written very poorly. It doesn't say you have to buy insurance for a period of three years; it just says that you have to provide proof of liability for a period of three years. If it is just going to be for one year, we don't need the words "for a period of" in there. But, it could read, "This proof must be provided for each renewal period for a period of X number of years, or until the subject vehicle is no longer registered and kept on file with the department." That would mean that whenever you renew the vehicle you have to bring the proof.

Representative Robin Weisz: I don't have a problem with Rep. Mark Owens proposed amendment, but I think the Department of Transportation will have problems with it. Because, if the vehicle that I got stopped with is an older vehicle, and then I just don't register it; I won't have to provide proof of liability. The whole thing would go away. Then it doesn't speak to the fact that I am still driving and wouldn't be required to maintain liability that one year.

Rep. Mark Owens: Representative Robin Weisz is right, I was still focused on the vehicle.

Representative Gary Paur: I think that in the testimony the person's problem was that he had to carry the more expensive insurance on **ALL** his vehicles for the **3 year period**.

Representative Robin Weisz moved a DO PASS on HB 1391.
Representative Lois Delmore seconded the motion.

A roll call vote was taken on HB 1391. Aye 12 Nay 0 Absent 2
The motion carried.

Representative Robin Weisz will carry HB 1391.

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1391**

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 Robin Weisz Seconded By Representative Lois Delmore

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	A				
Rep. Hawken	X				
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 Robin Weisz

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

REPORT OF STANDING COMMITTEE

HB 1391: Transportation Committee (Rep. Ruby, Chairman) recommends **DO PASS**
(12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1391 was placed on the
Eleventh order on the calendar.

2015 SENATE TRANSPORTATION

HB 1391

2015 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1391

3/5/2015

Recording job number 24355

☐ Subcommittee ☐ Conference Committee

Committee Clerk Signature

Douglas E. Perez

Explanation or reason for introduction of bill/resolution:

To amend and reenact subsection 5 of section 39-08-20 of the North Dakota Century Code, relating to a certificate of insurance for driving without liability insurance.

Minutes:

Attachments: *4*

Chairman Oehlke opened the hearing on HB 1391; all committee members except **Senator Campbell** were present.

Representative Bob Hunsakor, District 6, sponsor of this bill on behalf of a constituent, requesting changing the requirement of proof of motor vehicle liability insurance from a period of three years to a period of one year. Attachments: #1: written testimony; #2 copy of Century Code 39-08-20 Driving without liability insurance prohibited - Penalty.; #3 Proof of financial responsibility.

Steve Becher, Executive Director, Professional Insurance Agents of North Dakota. Written testimony, attachment #4, opposing this bill, the problem of uninsured drivers is becoming a larger issue in the state. This bill would lower one of the deterrents to driving without insurance. Lowering this time period will give people less of a reason to purchase liability insurance. The other problem is that if the Legislature were to lower penalties and fines every time someone feels it wasn't fair, soon there would be no deterrents at all. This bill is sending the wrong message.

Glenn Jackson, Director, Drivers' License Division, North Dakota Department of Transportation (DOT) neutral, to answer questions from the committee. Some committee members said that at this point they don't know enough about the issue to ask questions.

Pat Ward, Association of ND Insurers, neutral, two things jump out, if there is a problem because there is no consistency between the DUI and the DWI standards, maybe it is because we cut the DUI too short. The second one is whenever we have anecdotal legislation, when we are trying to fix something that happened to one person we don't know the actual facts, we can only speculate about the facts. I heard cost of insurance had gone up, he stopped paying it, got caught and ended up paying more for having to go to a high risk insurer, a three year deal.

Chairman Oehlke requested more information on the facts.

No additional testimony for, against or neutral. Hearing closed.

2015 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1391
3/19/2015
Recording job number 25143

☐ Subcommittee ☐ Conference Committee

Committee Clerk Signature

Deus E. Perez

Explanation or reason for introduction of bill/resolution:

To amend and reenact subsection 5 of section 39-08-20 of the North Dakota Century Code, relating to a certificate of insurance for driving without liability insurance.

Minutes:

Attachment: 0

Chairman Oehlke opened the discussion on HB 1391, Senator Campbell was absent.

Chairman Oehlke I don't think going to one year will hurt anything.

Senator Sinner have you had experience with drivers without liability come to you?

Chairman Oehlke a lot of times did not get insure or forgot to pay the premium. End up without insurance, thus end up with penalty.

Vice Chairman Casper this is essentially a penalty, greater expense, right now DUI is one year.

Senator Rust everybody knows, if you don't have insurance you shouldn't drive the vehicle, so if you don't want to pay the fine don't do the crime

Chairman Oehlke is 1 yr. is enough to learn the lesson or do they need 3 yrs.?

Senator Sinner when we fill out renewal slips in our titles we always put on there that we have insurance, are those people penalized at all for lying?

Chairman Oehlke it is right here, it is a citation for failure to drive without insurance.

Vice Chairman Casper moved do pass on HB 1391

Senator Sinner seconded

Roll call vote was taken: Yes 4 No 1 Absent 1

Carrier: Senator Axness

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
HB NO. 1391**

Senate 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 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	ABS				
Senator Rust		X			

Total (Yes) 4 No 1

Absent (not voting) 1

Floor Assignment Senator Axness

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

REPORT OF STANDING COMMITTEE

HB 1391: Transportation Committee (Sen. Oehlke, Chairman) recommends **DO PASS**
(4 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1391 was placed on the
Fourteenth order on the calendar.

2015 TESTIMONY

HB 1391

#1

HB 1391
2-6-15

1 of 4

Good morning Chairman Ruby and members of the House Transportation Committee.

My name is Rep. Bob Hunsakor. I represent District 6 which includes Bottineau, Renville and McHenry counties.

Mr. Chairman, I appear before your committee on behalf of a constituent - with your permission, allow me to share his story leading up to the bill that is before you.

Craig bought an old car that carried an expired license plate - drove it to Willow City to have new tires put on - was stopped by police officer - had no liability insurance - issued a ticket by the officer - appeared in court - paid \$400 in fines.

In due time, he received a notice from DOT informing him that he was required to provide proof of liability insurance (SR-22) for the vehicle or his driver's license would be suspended. According to Section 5 of CC 39-08-20 the proof of insurance must be provided for a period of three years.

Craig contacted his insurance agent to purchase the liability insurance on the vehicle he was driving and was told he would need to pay a higher rate on all of his licensed vehicles. (CC39-16.1-09)

Craig contacted me asking why the proof of liability insurance was for three years while proof of liability insurance as a result of a DUI violation was for one year. In visiting with Legislative Council and Glenn Jackson, Director of the Driver's License Division, we discovered that under CC39-16.1-19 proof of insurance is required for one year in the case of a DUI violation while under Section 39-08-20 proof of liability insurance is required for three years.

In June 1993, HB 1488 reduced the requirement to file proof of responsibility from three years to one year for a DUI and other violations. CC39-16.1-.01

HB 1391 would amend CC39-08-20 sub-section 5 so the proof of liability insurance would need to be provided for one year.

Thank you Mr. Chairman and members of the House Transportation Committee.

39-08-20. Driving without liability insurance prohibited — Penalty.

1. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1.

2. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence, including written or electronic proof of insurance, of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section. If that person produces satisfactory evidence, including written or electronic proof of insurance, of a valid policy of liability insurance in effect at the time of the alleged violation of this section to the office of the court under which the matter will be heard, that person may not be convicted or assessed any administration fee for violation of subsection 1.

3. Notwithstanding section 26.1-30-18, a person may be convicted for failure to have a valid policy of liability insurance in effect under this section if the time of acquisition of the policy was after the time of the alleged incidence of driving without liability insurance. If the time of acquisition of the policy comes into question, the driver or owner has the burden of establishing the time of acquisition. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle.

4. Violation of subsection 1 is an infraction and the sentence imposed must include a fine of at least one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within a three-year period must be fined at least three hundred dollars which may not be suspended. For a second or subsequent conviction for a violation of subsection 1 or equivalent ordinance, the court shall order the motor vehicle number plates of the motor vehicle owned and operated by the person at the time of the violation to be impounded until that person provides proof of insurance and a twenty dollar fee to the court. The person shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the office of the police officer that made the arrest and notify the department of the order. A person who does not provide the number plates to the court at the appropriate time is guilty of a class B misdemeanor.

5. Upon conviction for a violation of subsection 1 or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized

to do business in this state. This proof must be provided for a period of three years and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.

6. A person who has been convicted for violation of subsection 1 or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.

7. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

PROOF OF FINANCIAL RESPONSIBILITY

North Dakota Century Code Chapter 39-16.1, "Proof of Financial Responsibility for the Future," works in concert with Chapter 39-16, "Financial Responsibility of Owners and Operators." The purpose of these two chapters is to protect innocent victims of motor vehicle accidents from financial disaster. Both chapters are for a motor vehicle owner who has already had an accident or has been convicted of certain traffic offenses. The sanctions imposed by Chapter 39-16 are intended to guarantee financial responsibility for a first accident. In contrast, the sanctions imposed by Chapter 39-16.1 are designed to establish proof of financial responsibility for future accidents.

Under NDCC Section 39-16-06, after the director receives an accident report, the license of the driver involved in the accident is suspended unless the driver deposits security to satisfy any judgment for damages resulting from the accident. However, if the driver purchases liability insurance and provides proof of financial responsibility, the driver may drive until the accident is settled or determined by a court. If the driver is found negligent, the driver's license is suspended. However, the license is not suspended if the person had liability insurance at the time of the accident. Under Section 39-16-07, a license suspended under Section 39-16-05 remains suspended until security is deposited to answer for damages, one year has passed since the accident and no action or damages has been instituted, or the case has been settled.

Under NDCC Section 39-16.1-01, a person who commits certain offenses or fails to pay a judgment needs to provide proof of financial responsibility. Also, a person who did not have liability insurance in effect at the time of an accident is required to provide proof of financial responsibility. In addition, proof of financial responsibility is required under the following circumstances:

- Conviction for driving under the influence.
- Conviction for actual physical control.
- Refusal of chemical tests.
- Conviction for driving under revocation.
- Conviction for driving under suspension when length of suspension is for 91 days or more.
- Until a judgment for an automobile accident is fully satisfied.
- Conviction for manslaughter in which a motor vehicle is used.
- Conviction for negligent homicide in which a motor vehicle is used.
- Conviction for a felony in which a motor vehicle is used.

This proof of financial responsibility may be given by a certificate of insurance, a bond, or a certificate of deposit of money or securities with the Bank of North Dakota. If the proof of financial responsibility provided is a certificate of insurance, this certificate is called an SR-22 filing.

Under NDCC Section 39-16.1-03, the clerk of court sends notice to the director of the failure to satisfy a judgment. Under Section 39-16.1-04, the director upon receiving this notice, suspends the license unless there is an installment plan to pay the judgment and the person has proof of financial responsibility, the judgment creditor consents to a license and there is proof of financial responsibility, or the individual files an affidavit with the director stating the individual had insurance and the insurer is liable to the amounts required by the chapter. Under Section 39-16.1-05, the judgment is satisfied under the chapter, if the proof of financial responsibility limits are credited to the judgment.

Under NDCC Section 39-16.1-19, proof of financial responsibility is required for one year. In 1993, House Bill No. 1488 reduced the requirement to file proof of responsibility from three years to one year.

The following is provided by the Department of Transportation and is a list of situations in which individuals failed to maintain insurance and subsequently had their operator's licenses suspended.

SUSPENSIONS AS A RESULT OF NO INSURANCE					
Failure to Maintain Proof of Financial Responsibility (Sections 39-16.1-07 and 39-16.1-20)		Failure to File Proof of Insurance After Crash (Section 39-16-05)		Failure to Maintain Liability Insurance (Section 39-08-20)	
1991	1,791	1991	892		
1992	1,749	1992	843		
1993	757	1993	911		
1994	1,081	1994	1,215		
1995	1,046	1995	1,091		
1996	932	1996	1,264		
1997	1,045	1997	1,431		
1998	998	1998	1,124		
1999	935	1999	1,027	1999	407
2000	1,043	2000	891	2000	2,405
2001	1,126	2001	950	2001	2,656
2002	984	2002	1,002	2002	1,628
2003	999	2003	974	2003	978
2004	1,040	2004	944	2004	1,171
2005 (through June)	558	2005	536	2005	660

#2
HB1391
2-5-15

1 of 2

Testimony for House Bill 1391 – House Transportation Committee

Chairman Ruby and members of the House Transportation Committee for the record my name is Jeff Evink with Professional Insurance Agents of North Dakota (PIAND) and I am here today in opposition to House Bill 1391. PIAND is a trade association representing over 300 main street insurance agencies across the state of North Dakota with over 1,000 independent insurance agents.

In the interest of protecting everyone who uses the highways and roads of North Dakota it is good public policy to require that all drivers carry liability insurance. Drivers that don't carry insurance put all other insured drivers on the road at risk of having a financial loss even when the insured driver is not at fault. They also cause insurance rates to go up. The insured driver will have uninsured motorist coverage, but that only covers injuries that the insured driver may incur due to the fault of an uninsured driver (not damage to their vehicle). If the insured driver carries collision coverage the vehicle damage would be covered under their own policy, but they would have to pay a deductible even though the accident was not their fault. If the insured driver only carries liability coverage, the damage to their vehicle would not be covered under any insurance policy and they would be stuck with paying for it themselves and possibly taking the uninsured driver to court to recover their loss.

The state of North Dakota uses the SR-22 form to help protect its citizens against problem drivers by monitoring their insurance. It requires the auto insurance company to file the SR-22 form as a proof of a problem driver's financial responsibility, stating that his/her auto insurance liability is in effect. House Bill 1391 is trying to lower the time period from three years to one year on a SR22 filing for a driving without insurance violation in North Dakota. We shouldn't be giving people less of a reason to purchase liability insurance. It would benefit the state and our insured drivers to have stiffer penalties as far as a fine and filing proof of liability insurance goes rather than making it easier for them to break the law. Most drivers that are required to have a SR22 filing have to be insured with nonstandard carriers and their auto rates will be higher due

Page 2 House Bill 1391 – Jeff Evink

to this fact. Part of the deterrent to driving without insurance is facing these higher insurance costs and having the additional reporting duty of the SR22.

It is in the interests of all the citizens of North Dakota as well as the insurance industry that drivers on our roads have auto insurance. This bill is going the wrong direction if we want to encourage all drivers in the state to carry insurance and not raise the rates for the people who decide to purchase a policy. In order to keep stiff enough penalties for those who choose to drive without insurance I am here to oppose House Bill 1391 and would be happy to answer any questions that you may have.

HB 1391
3/05/15
#1-1

Good morning Chairman Oehlke and members of the Senate Transportation Committee.

My name is Rep. Bob Hunsakor. I represent District 6 which includes Bottineau, Renville and McHenry counties.

Mr. Chairman, I appear before your committee on behalf of a constituent - with your permission, allow me to share his story leading up to the bill that is before you.

Craig bought an old car that carried an expired license plate - drove it to Willow City to have new tires put on - was stopped by police officer - had no liability insurance - issued a ticket by the officer - appeared in court - paid \$400 in fines.

In due time, he received a notice from DOT informing him that he was required to provide proof of liability insurance (SR-22) for the vehicle or his driver's license would be suspended. According to Section 5 of CC 39-08-20 the proof of insurance must be provided for a period of three years.

Craig contacted his insurance agent to purchase the liability insurance on the vehicle he was driving and was told he would need to pay a higher rate on all of his licensed vehicles. (CC39-16.1-09)

Craig contacted me asking why the proof of liability insurance was for three years while proof of liability insurance as a result of a DUI violation was for one year. In visiting with Legislative Council and Glenn Jackson, Director of the Driver's License Division, we discovered that under CC39-16.1-19 proof of insurance is required for one year in the case of a DUI violation while under Section 39-08-20 proof of liability insurance is required for three years.

In June 1993, HB 1488 reduced the requirement to file proof of responsibility from three years to one year for a DUI and other violations. CC39-16.1-.01

HB 1391 would amend CC39-08-20 sub-section 5 so the proof of liability insurance would need to be provided for one year.

Thank you Mr. Chairman and members of the Senate Transportation Committee.

HB 1391
3/05/15
2-1

39-08-20. Driving without liability insurance prohibited — Penalty.

1. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1.

2. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence, including written or electronic proof of insurance, of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section. If that person produces satisfactory evidence, including written or electronic proof of insurance, of a valid policy of liability insurance in effect at the time of the alleged violation of this section to the office of the court under which the matter will be heard, that person may not be convicted or assessed any administration fee for violation of subsection 1.

3. Notwithstanding section 26.1-30-18, a person may be convicted for failure to have a valid policy of liability insurance in effect under this section if the time of acquisition of the policy was after the time of the alleged incidence of driving without liability insurance. If the time of acquisition of the policy comes into question, the driver or owner has the burden of establishing the time of acquisition. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle.

4. Violation of subsection 1 is an infraction and the sentence imposed must include a fine of at least one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within a three-year period must be fined at least three hundred dollars which may not be suspended. For a second or subsequent conviction for a violation of subsection 1 or equivalent ordinance, the court shall order the motor vehicle number plates of the motor vehicle owned and operated by the person at the time of the violation to be impounded until that person provides proof of insurance and a twenty dollar fee to the court. The person shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the office of the police officer that made the arrest and notify the department of the order. A person who does not provide the number plates to the court at the appropriate time is guilty of a class B misdemeanor.

5. Upon conviction for a violation of subsection 1 or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized

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to do business in this state. This proof must be provided for a period of three years and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.

6. A person who has been convicted for violation of subsection 1 or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.

7. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

PROOF OF FINANCIAL RESPONSIBILITY

North Dakota Century Code Chapter 39-16.1, "Proof of Financial Responsibility for the Future," works in concert with Chapter 39-16, "Financial Responsibility of Owners and Operators." The purpose of these two chapters is to protect innocent victims of motor vehicle accidents from financial disaster. Both chapters are for a motor vehicle owner who has already had an accident or has been convicted of certain traffic offenses. The sanctions imposed by Chapter 39-16 are intended to guarantee financial responsibility for a first accident. In contrast, the sanctions imposed by Chapter 39-16.1 are designed to establish proof of financial responsibility for future accidents.

Under NDCC Section 39-16-06, after the director receives an accident report, the license of the driver involved in the accident is suspended unless the driver deposits security to satisfy any judgment for damages resulting from the accident. However, if the driver purchases liability insurance and provides proof of financial responsibility, the driver may drive until the accident is settled or determined by a court. If the driver is found negligent, the driver's license is suspended. However, the license is not suspended if the person had liability insurance at the time of the accident. Under Section 39-16-07, a license suspended under Section 39-16-05 remains suspended until security is deposited to answer for damages, one year has passed since the accident and no action or damages has been instituted, or the case has been settled.

Under NDCC Section 39-16.1-01, a person who commits certain offenses or fails to pay a judgment needs to provide proof of financial responsibility. Also, a person who did not have liability insurance in effect at the time of an accident is required to provide proof of financial responsibility. In addition, proof of financial responsibility is required under the following circumstances:

- Conviction for driving under the influence.
- Conviction for actual physical control.
- Refusal of chemical tests.
- Conviction for driving under revocation.
- Conviction for driving under suspension when length of suspension is for 91 days or more.
- Until a judgment for an automobile accident is fully satisfied.
- Conviction for manslaughter in which a motor vehicle is used.
- Conviction for negligent homicide in which a motor vehicle is used.
- Conviction for a felony in which a motor vehicle is used.

This proof of financial responsibility may be given by a certificate of insurance, a bond, or a certificate of deposit of money or securities with the Bank of North Dakota. If the proof of financial responsibility provided is a certificate of insurance, this certificate is called an SR-22 filing.

Under NDCC Section 39-16.1-03, the clerk of court sends notice to the director of the failure to satisfy a judgment. Under Section 39-16.1-04, the director upon receiving this notice, suspends the license unless there is an installment plan to pay the judgment and the person has proof of financial responsibility, the judgment creditor consents to a license and there is proof of financial responsibility, or the individual files an affidavit with the director stating the individual had insurance and the insurer is liable to the amounts required by the chapter. Under Section 39-16.1-05, the judgment is satisfied under the chapter, if the proof of financial responsibility limits are credited to the judgment.

Under NDCC Section 39-16.1-19, proof of financial responsibility is required for one year. In 1993, House Bill No. 1488 reduced the requirement to file proof of responsibility from three years to one year.

The following is provided by the Department of Transportation and is a list of situations in which individuals failed to maintain insurance and subsequently had their operator's licenses suspended.

SUSPENSIONS AS A RESULT OF NO INSURANCE					
Failure to Maintain Proof of Financial Responsibility (Sections 39-16.1-07 and 39-16.1-20)		Failure to File Proof of Insurance After Crash (Section 39-16-05)		Failure to Maintain Liability Insurance (Section 39-08-20)	
1991	1,791	1991	892		
1992	1,749	1992	843		
1993	757	1993	911		
1994	1,081	1994	1,215		
1995	1,046	1995	1,091		
1996	932	1996	1,264		
1997	1,045	1997	1,431		
1998	998	1998	1,124		
1999	935	1999	1,027	1999	407
2000	1,043	2000	891	2000	2,405
2001	1,126	2001	950	2001	2,656
2002	984	2002	1,002	2002	1,628
2003	999	2003	974	2003	978
2004	1,040	2004	944	2004	1,171
2005 (through June)	558	2005	536	2005	660

Testimony for House Bill 1391 – Senate Transportation Committee

3-05-15

Chairman Oehlke and members of the Senate Transportation Committee for the record my name is Steve Becher, Executive Director of Professional Insurance Agents of North Dakota (PIAND) and I am here today in opposition to House Bill 1391. PIAND is a trade association representing over 300 main street insurance agencies across the state of North Dakota with over 1,000 independent insurance agents.

In the interest of protecting everyone who uses the highways and roads of North Dakota it is good public policy to require that all drivers carry liability insurance. Drivers that don't carry insurance put all other insured drivers on the road at risk of having a financial loss even when the insured driver is not at fault. As we talked about in an earlier hearing with this committee, the problem of uninsured drivers is becoming a larger issue in our state particularly with the influx of workers in the Oil Patch. Chairman Oehlke can most likely give many examples of uninsured drivers causing losses for the insureds in his agency in Devils Lake. House bill 1391 could easily add to the uninsured driver problem in our state by significantly lowering one of the deterrents to driving without insurance.

The state of North Dakota uses the SR-22 form to help protect its citizens against problem drivers by monitoring their insurance. It requires the auto insurance company to file the SR-22 form as a proof of a problem driver's financial responsibility after the driver is convicted of driving without insurance, showing that they now have auto liability insurance in effect. House Bill 1391 is trying to lower the time period that this proof of insurance must be filed after these violations from 3 years to 1 year. This bill will give people less of a reason to purchase liability insurance since the fine is only \$150 and they would only need to show that they have insurance for 1 year after they are caught. Part of the reason for the current 3 year requirement is so that these drivers

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get in the habit of having insurance and keeping it in force. After having continuous insurance for 3 years it is highly unlikely that these drivers are going to let the policy lapse when the SR22 requirement is met, but the lower 1 year would only require them to buy a policy and pay one renewal at 6 months which is not enough time for a habit to take hold. The other problem with this bill is the reason that is being brought forward. We have been told that the bill is due to a constituent that forgot to purchase insurance on a vehicle even though he had coverage on other vehicles and doesn't think it was fair that he had to now show proof of insurance for 3 years. Would it have been fair if this constituent would have injured or killed someone with that uninsured vehicle or damaged their property? If the Legislature were to lower penalties and fines every time a constituent didn't feel it was fair we would soon have no deterrents at all. The bottom line is that when a person makes a mistake that could end up hurting someone else, there are ramifications for that mistake and to have to show proof of insurance for 3 years after driving without insurance is not an unrealistic penalty.

It is in the interest of protecting all the citizens of North Dakota that drivers on our roads are required to carry auto insurance and this bill is sending the wrong message if we want to encourage all drivers in the state to comply. In order to protect our citizens by keeping a reasonable proof of insurance requirement in place for those who choose to drive without insurance I would encourage a DO NOT PASS on House Bill 1391 and would be happy to answer any questions that you may have.