

2017 HOUSE TRANSPORTATION

HB 1203

2017 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1203
1/20/2017
#27178

- Subcommittee
 Conference Committee

Committee Clerk Signature

Janette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to the liability exemption of a motor vehicle driver; and relating to pedestrians on roadways.

Minutes:

Attachments #1 - 9

Chairman Ruby brought HB 1203 before the committee.

Representative Keith Kempenich, District 39, introduced HB 1203 and provided written testimony and an amendment. See attachments # 1-2.

The first part of the bill in Chapter 32-03.2-02.2 is basically the liability insurance and the damages. See attachment #1, page 1. I am also proposing amendments to clarify the bill. See attachment #2. (17.0351.01001) The amendment softens the language somewhat. That is the insurance part of it. You have to bleed that into the chapter.

The second part is the pedestrian part of the chapter (39-10-33.) Attachment 1, page 2. This takes the liability away from a person who exercises reasonable care and unintentionally hits someone on a roadway who is there intentionally. It is shifting the liability to someone who is intentionally obstructing the roadway. This bill has nothing to do with someone who is **not** on the roadway.

Representative Nelson: Are there any other cases in North Dakota law where we exempt the driver from doing due diligence while driving?

Representative Kempenich: They all have due diligence, but if you are tying this into interaction with people, this is it.

Representative Nelson: I am confused because of the way you used the words intentionally. It seems like unintentionally to you includes negligence and so on. But, I am more used the criminal law that uses negligent or reckless, which has: intentional, knowingly, recklessly, and negligently ... When you say unintentional, does that include just intentional acts or does that also include knowing acts, reckless acts, negligent acts? Or are you just trying to do...

Representative Kempenich: This is an unintentional act that you have no response. It is something that you cannot know that you will be in this situation. It takes someone who does not want to be in this situation, is going about their legal business, and is put into a situation where someone instigates a situation that puts them in it. This is the only section in Code where there is interaction between people and motor vehicles. We are trying to put parameters on what is an action and who instigates those actions.

Representative Nelson: We are changing North Dakota law, so we don't have to run out and find fault before the pedestrian is covered under automobile insurance? We are going to insert a step so we have to go out and find out what is in the pedestrian's mind and why they are there before they are covered under automobile insurance?

Representative Kempenich: That is exactly right.

Chairman Ruby: Do you think that it is possible if there is an unintentional accident, that at this point the driver is already exempt from some type of criminal action? Or civil action?

Representative Kempenich: There are remedies out there. It is now a court issue, but why should people get put into a position where they have to defend themselves against something that was unintentional act of being on the roadway. Putting the amendments on helps to clarify that. This could apply to someone who steps out between two cars and jaywalks. Something like a child running out into the street chasing a ball is not an intentional act on the part of the child. That is different.

Chairman Ruby: If I understand this, if someone is intentionally obstructing the traffic, then the burden of liability, potential criminality, and burden of proof falls on the person who was obstructing traffic and not the driver?

Representative Kempenich: Yes, that is exactly what it does. If you are not on the roadway, this bill has nothing to do with you. If you are abiding by what the law says today, this bill has nothing to affect you, such as a bicyclist.

Representative Mike Brandenburg, District 28, spoke to support HB 1203. This is a bill that needs to be addressed due to the activity that has happened. I have concern in my district about what may happen to the people that drive up and down the road, and all of the sudden they are a situation that they don't want to be in. A bill like this would protect the people from the actions like the ones that have taken place in the past. If an accident would happen, it would take the liability off of them. It is a bill that has happened because of things that have happened recently. It needs to be talked about because someone is driving down 1804 or 1806 and all of the sudden they are put in a situation where they feel threatened. They want to get out of there, and the people on the roadway won't let them pass. If people stay off of the road, the bill will not hurt them at all.

15:50

Gaylynn Becker, a private citizen from Bismarck, spoke to support HB 1203. If my late wife would have heard about this, she would have said, "What is going on in this world?" It is ridiculous, to think that people driving down the highways get terrorized by someone who is thinking they are imposing their 1st amendment rights, but they are not. They are participating

in illegal activity by blocking the highway. This bill is needed because of what has been happening, and what is happening in the state of North Dakota. I am a big supporter of 1st amendment rights. I like to protest, but protesting and breaking the law by intimidation and terrorizing other people can lead others to live the rest of their lives with Post Traumatic Stress Disorder. This could happen to someone who is just going about their own business and not involved with a conflict that is someone else's. The same can happen to our law enforcement people. This issue need to be dealt with. The bill is really needed, and I hope that you vote in support of this version or a similar version of HB 1203 to help protect citizens of the state of North Dakota.

An additional written testimony by **Julie Ellingson, the North Dakota Stockmen's Association**, was distributed to the committee and was **supportive** of HB 1203. See attachment #3.

There was no further support for HB 1203.
19:00

Andrew Alexis Varvel, spoke in opposition to HB 1203. Written testimony was provided. See attachment # 4.
22:22

Representative Jones: I appreciate your testimony today, but I am confused since you cited terrorist activities involving vehicles. Exactly what we are trying to prevent in North Dakota is terrorist activity. The bill refers to unintentionally causing, and the list that you cited are terrorist acts, and were obviously intentional acts. What am I not understanding?

Andrew Alexis Varvel: In reading this bill I think that a terrorist could say, I didn't intend to do this. Furthermore, I am concerned that a pipeline worker could be on the road, for example, and do you want a protestor running into them? They could say, "Oh, I didn't intend to kill them." There is also a question of what happens near high schools. It is common for there to be jaywalking by students near a school. As annoying as it is for them to get away with unlawful jaywalking; I do not think it is appropriate to allow children to get killed because they are doing it intentionally. The question will be if something is intentional or unintentional. Where do you find fault? The (inaudible) can always claim that he didn't intend to do it, and then how can we make sure it was intentional or not? We don't want to put a target on our backs. We don't want terrorists to come in and use their vehicles as weapons.

I realize that there is a lot of frustration going on with the protests. You have people on each side regarding the other as terrorists. We try to figure out a way to look at the long-term consequences of this bill and the message that it sends. I think we need to find a way of getting through this that doesn't send the wrong message and also makes sure the liability is where it is now. I understand that the protests are annoying. The anti-abortion protests are annoying as well, but you wouldn't want drivers to be running into protestors there either. I respectfully say that this bill brings an opportunity that ought not to be there.

Representative Sukut: In all of the examples that you listed in your testimony, were all of the people that were unfortunately killed in those incidents breaking the law?

Andrew Alexis Varvel: To answer that question you would have to go case by case. I haven't researched the issue that thoroughly. I think we need to not only look at what has happened in the past in these horrible examples, but also look at what door we are possibly opening for the future to have terrorists use vehicles to harm others, and say they didn't mean to. It is very difficult to determine what is unintentional.

28:04

Chairman Ruby: I appreciate your suggestion for the bill to be withdrawn, but once we have a hearing on a bill, it is too late to have it withdrawn.

Tom Saylor from Washburn: I get both sides of what is going on, but I'm worried about if this starts out with this issue, and then it will branch out into other issues like insurance. It is a knee jerk reaction to overreact when something like this happens. I'm worried that the insurance lobby could use this. If liability is down to a decent degree, it helps insurance.

29:36

Scott Nodland: I understand why we are addressing this; it is part of a package to address control over protestors, but it is an over reach in a serious way. I grew up in North Dakota and got a 100% on my driver's training and learned that the vehicle must always yield to the pedestrian. Anecdotal story, that told of a taxi driver in Brazil who swerved toward a pedestrian. When asked why he did it he explained, "I'm teaching him not to block my path."

31:25

Alan Austad, Executive Director of the North Dakota Association for Justice, stated that his association is opposed to HB 1203. He introduced **Ron Pagel** to present their testimony.

Rod Pagel, attorney with Pagel Weikum Law Firm, spoke for the **North Dakota Association of Justice** to oppose HB 1203. I am not here to say that the Association of Justice is or is not in support of the protest. I understand the hot button that it is.

I have a couple of concerns with this bill. I am going to go back to Representative Nelson's question in association with the bill. It is not a comparative fault statute; it is an immunity statute. It says that we are going to let negligent drivers get away with actions, even though they were negligent. It is the only statute, that I am aware of, in which the statute itself says that we are going to let negligent drivers get away with actions even though they were negligent. It is the only statute in which the statute itself recognizes that the person we are holding immune is negligent. I don't know of any other statute that says, "I recognize that you were negligent, and that you did something wrong, and you did something that a reasonable person would not do, but we are going to give you a free pass and not hold you responsible for your actions."

I understand that adding language "unintentionally" to the bill helps. Unfortunately, it is still a bad bill. What about a cattle farmer who is moving cattle across a road? That person is intentionally obstructing the roadway. I am intentionally standing in front of this committee. My intention is not to prevent the business of this committee, but I am intentionally standing here. If the intent is to block the roadway, it is different than intentionally obstructing the roadway. It would help to clean up the bill, to have language that said, "if the intent is to

obstruct the roadway". It would alleviate some of the concerns of the bill, and the language of the bill. Someone who is standing in the roadway to try to get help, their intent is to go out there and try to stop a vehicle to get help. That person is intentionally obstructing a roadway. There is no clear definition on what is intentionally obstructing a roadway and what is not intentionally obstructing the roadway. If the intent is TO obstruct the roadway, that may be helpful to the bill. I still think it is a bad bill.

We already have comparative fault statutes in North Dakota that say if someone is in any type accident, a jury gets to determine who is at fault, and who is responsible for that accident. In North Dakota we have one of the most constrictive comparative fault statutes. If I am the injured party, I have to prove that the other party was **more than** 50% responsible for causing my injuries or death. If I bring a wrongful death claim, and a jury says that I am half at fault, and the other party was half at fault, then I get zero. That is already in the law. We don't need to change what has already been established in the state.

The greatest concern I have with the bill is that it gives a free pass to negligent drivers. That includes people who are texting and driving, or who are drunk and driving. By passing this bill you are saying that a drunk driver has a free pass to hit someone who is standing in the road and kill them. I don't know that is acceptable to the people of North Dakota. We also don't want to condone negligent driving, like texting and driving. We need to pay attention to the roadway. This bill would let negligent drivers strike pedestrians on the road who are intentional obstructing the roadway (What does that mean?), injure and kill them, and they get a free pass. That is my biggest concern. I don't know how you clean that up. I don't think you are able to clean it up in the context of the bill. If we want to stop and address protesting on the highway or road, I think there is a better capacity to do it than in the context of this bill.

Vice Chairman Rick C. Becker: I suspect that we will adopt the amendments. One was to remove the word negligently, and change it to "exercising reasonable care". I understand that you have two primary concerns, one is "negligently", and the other is the whole aspect of what is "obstructing", and what is "intentionally obstructing". Is that correct?

Rod Pagel: Yes.

Vice Chairman Rick C. Becker: Does the amendment, if adopted, of removing "negligently" and adding "while exercising reasonable care", take care of one of your concerns?

Rod Pagel: In the definition of negligence it addresses the issue of reasonable care. It is the same thing on a different side of the coin. You are still going to have to make a determination of whether that person was exercising reasonable care or not. If I am trying to assert that you are negligent in something, I have to be asserting that you weren't exercising reasonable care. If you are asserting reasonable care, then you are not negligent. In my mind it is two sides of the same coin.

Vice Chairman Rick C. Becker: Yes, it is two sides of the same coin, meaning that they have the opposite effect. Before it said, "negligently", and your concern about someone texting who would be negligent, but would be held harmless here. But now with the proposed amendment, it would be the opposite side of the coin. For instance, if someone is texting

and hits someone, they would **not** be exercising reasonable care and would **not** be protected by this law. Is that correct?

Rod Pagel: Hypothetically that could be correct. My question becomes who is determining whether or not if that person was using reasonable care, and how are we determining that? There is not a definition of what is reasonable care. It could be looking in your mirror or playing with your radio.

Vice Chairman Rick C. Becker: I assume that someone will determine it because there are all other types of cases that currently deal with issues not involving people intentionally obstructing the roadway. Someone will have to decide whether reasonable care was used.

Your second point indicates that you don't like the proposed language of the amendment, on Page 1 Line 9, "causing injury or death to an individual who is intentionally obstructing vehicular traffic." It sounds like you are suggesting better language would be, "to an individual whose intent is to obstruct vehicular traffic".

Rod Pagel: Yes, I think that would be better. If the statute at least read, "if the intent is to obstruct the roadway", then we are at least eliminating people who are not intending to obstruct a roadway, but perhaps intending to flag down a vehicle or get cattle across a road. Their intent is not to obstruct the roadway, but to do something else.

Chairman Ruby: The problem with your analogy is that you waited until you were able to speak, so you intentionally showed up here. But, if you had intentionally stood in front of us while someone else was testifying, we would have asked you to move because you would have been obstructing our work we have here today. I don't think that farmers and ranchers are necessarily relieved of responsibility, if they just start blocking a road by running their cattle across a road. They are required to take a reasonable amount of care in doing so, by notifying traffic. When you put in the words that the driver is exercising reasonable care. I don't think that someone plowing into a herd of cattle is practicing reasonable care. That is where I see the problem with your analogies.

Rod Pagel: I would agree with you in general, but that is because North Dakota law already provides for that. North Dakota law always says that a jury gets to determine... and not we have two different intents going on. One is an intent to obstruct the roadway and one is a reasonable care standard. So, we are asking the jury to go into the mind of two different parties in that context. My concern is that we are trying to fashion a bill that is going to allow someone that is using reasonable care to prospectively drive through someone who is intentionally obstructing the roadway. It is trying to dress up what I would consider to be a bad bill.

43:43

Representative Weisz: You bought up comparative fault which is where we are at in North Dakota. It appears to me that all the issues that you seem to have a problem with in this bill all come into play in comparative fault, when the jury determines who is 50% or who is 54% and to look at reasonable care in that aspect. So, how is this in some respects so much different from current comparable fault in deciding who is at fault? The only real difference

is that it says, "If you've done these things, you are not at fault." Now the jury determines the same criteria: reasonable care, negligence, ect.

Rod Pagel: I think that enough has been added to at least address some of the comparative fault concerns. I will go back to the intent. What is the original intent of the bill? Is it just to add another comparative fault statute, and if it is the same as we already have on the books, why are we adding it? It will just cause greater confusion and greater problems. The intent of this bill as I understand it was to stop the protest on the road. The people who are driving on the road shouldn't be subject to protestors who are preventing them from going places. There is a better way to do that in my mind rather than adding more confusion to what already exists in comparative fault statutes and laws.

Vice Chairman Rick C. Becker: I don't think that the intent of the bill is to stop the protests on the highway. Law already exists that would stop protests on the highway. This aims to protect people who are caught up on a roadway, are blocked by a mob, fear for their lives, and need to try to extricate themselves from that situation. They want to do so while exerting reasonable care and not be concerned that they are going to get sued because someone's kneecap got injured while they are trying to steer away from the mob who are pulling on the door handles of their car with children in the back seat. What statute exists currently for that family that is trying to get through a mob blocking them on the roadway?

Rod Pagel: I think that there a couple of statutes. If that is the intent of the statute, then it needs to be refashioned and redesigned for it to allow for that specific situation. It is too broad the way that it is, because it allows for all of these other exceptions. Secondly, there are statutes that allow for that, and they are called criminal statutes. You call law enforcement and police, and they come in and assist in that capacity.

Vice Chairman Rick C. Becker: I think that you shifted gears when you said that there are criminal laws in place where a sheriff can come and assist you in this particular circumstance. That is not what I am talking about. The situation that I gave you does not allow for that family to be sitting there for the thirty minutes for a sheriff to come. They need to get themselves out of that situation right away. They need protection for themselves, so they will not be sued, while they were trying, as safely as possible, to extricate themselves from the situation. What statutes currently address protecting the family trying to get themselves out of a dangerous situation from a mob?

Rod Pagel: And this one does? I don't believe it does. If this committee, want to constrict it to allowing for that type of 30-minute situation, then I think they have every right to do that. I wouldn't testify against it. My concern is the breadth of the language that is here goes far beyond that one type of situation.

48:20

Representative Jones: You said that you have a better way. What would be that be?

Rod Pagel: If I said that I have a better way, I have misspoken. I'm not up here to tell the committee how it should be done. I do think that there are provisions in criminal statutes that allow for additional penalties against a protestor that is intentionally blocking a roadway. Maybe designing a language that provides for the exact situation that Vice Chairman Rick C.

Becker is referring to. From my perspective, I wouldn't want to be in a situation where a mob of 50 people is blocking my access to get somewhere, and I was using reasonable care and caution to get to that place. I have no opposition to that type of bill. I have opposition to the language of the current statute that goes well beyond that type of scenario.
49:45

Lisa DeVille, member of Three Affiliated Tribes, read her testimony to the committee. Her testimony was e-mailed. See attachment # 5.
51:18

Marie D. Hoff, Bismarck, spoke to oppose HB 1203. An e-mail was sent to committee members with her opinions. See attachment #6.

Marie D. Hoff: I taught social policy for 13 years to graduate and undergraduate students. Good policy is usually based on having studies on some sort of data collection about widespread problems or issues of concern. As other speakers have said, I think it is pretty clear to everyone in this room that the bill grew out of concerns with specific recent events in the state of North Dakota. There are many other ways that the concerns could be addressed.

The second part of making good social public policy is to try the best that we can to address unintended consequences of public policy making. Other have brought up those concerns. Responding to specific incidents in the community. Even if the incident has taken a few months' time to go forward, is not a good way to make public policy. It smacks of frustration and desire to "do something" without knowing if what you are doing is good.

The important part of the bill to me is the unintended consequences. How do you prove people's intentions?

I do not think that targeted frustration is a good basis on which to make public policy. There are already plenty of laws for traffic safety in the state, and I don't think that additional laws are needed. I strongly urge you to DO NOT PASS this bill. It is not needed.

56:00

Susan Beehler, Mandan, North Dakota, spoke to oppose HB 1203. The bill presenter asked, "Why would anyone have to go to court to prove that they unintentionally hit someone? And that they shouldn't have to be liable if they hit someone that was obstructing the road." I drove for years for FedEx Ground and for the USPS as a rural mail carrier. I have seen many things on rural roads, and you need to use due care because of those situations. If you don't use due care, it would be easy to hit those people. I have driven south of Mandan, and people did come out into the roadway, but I did use caution.

People that are unknown to us can often cause fear. So, I am wondering if this bill will really do what the bill carrier has intended, to somehow eliminate having to go to court to prove that you are not liable. How does it do that? There will still have to be some kind of hearing for someone to make that decision. It shouldn't just be a judgement of someone who is at the scene at the time. Anecdotal stories about things that happen on the road,

I see this as a bill with unintentional consequences. I see it a bill that is a reaction to the protestors. Life is most important. I don't believe that we should negate it through the liability issue. There are many things that go on on the roads that have nothing to do with the protestors. Pedestrians, in my mind, have always had the right-of-way.

Does this bill will really do what the bill carrier has intended it to do? I just think that this centers around the protestors. It is not a good way to make law. I ask for a DO NOT PASS on HB 1203.

1:05:05

Doctor Timothy Yellow, a medically retired veteran of the United States Army: I served in Iraq, and am a citizen of North Dakota. I agree with previous testimony that the bill is a knee-jerk reaction we are having in response to the protests. Some of its unintended consequences are the images of North Dakota that are being portrayed nationally. I have received many emails from all over the county about what is going on in North Dakota. Many parts of the county deal with protests all of the time, and they don't react with policy changes that are intended to come straight at the protests. It seems like the changes are intended to punish protestors and limit their ability. I am very concerned about North Dakota's image, and how the North Dakota Legislators are using their personal opinions to try to influence an event that has happened recently and will go away.

Chairman Ruby: I'm not sure I agree with your comment about a knee-jerk reaction. Yes, the event has happened recently but our legislative session is now, and we won't have another one for two years, so we have to deal with things now. In the other protests that you refer to, did they cost the state over \$20 million dollars?

Doctor Timothy Yellow: I have no idea. I just don't think we should make legislation over one incident.

Chairman Ruby: I just wanted to make sure the comparison was apples to apples.

10:08:25

Ruth Ann Buffalo, Mandarin, North Dakota, member of Three Affiliated Tribes and currently residing in Fargo, North Dakota, and a new member to the Board of Directors for the North Dakota Human Rights Coalition, spoke to represent Great Rides, a cycling organization, to oppose HB 1203. She read her testimony, which has been provided in an email. See attachment # 7.

1:13:26

Andrea Denault, North Dakota Human Rights Coalition, spoke to voice her opposition to HB 1203. She feels that this bill will embolden people who want to commit hate crimes in North Dakota using their cars.

1:14:02

Tom Asbridge, a private citizen, spoke to oppose HB 1203. Written testimony was provided. See attachment #8.

Tom Asbridge: I am a minimalist. I would like to see a legislative session that ended saying that you shrunk the Century Code. I am not pro protestor, but I am supportive of everyone's right to protest. I oppose governments interference in our liberties and free speech, that are so essential to our country.

1:20:35

Vice Chairman Rick C. Becker: You have an interesting and provocative testimony. It sounds like you, and I have a lot in common when it comes to government. I would like to hear in what way you think this bill is unconstitutional?

Tom Asbridge: I think the unconstitutionality of this is because it is an absolute restriction of free speech by virtue of how it can impede free speech and let someone else take a car and run someone over because they don't like them. Then hide behind the law. The use of the law to impede others is a serious thing in our country. Our constitution prevents the majority from impeding the minority, just because they have the majority. That is what is happening here. It is a real misguided attempt to restrict free speech, in particular the first amendment. Lawyers may disagree with this for sure. It will be litigated if you pass it.

1:23:35

Vice Chairman Rick C. Becker: Like you, I believe that the whole reason government exists is to protect the rights of people from other people and from government itself. The right of the people to have free speech is paramount. Laws on the books already do not allow for congregating and obstructing a roadway. It is understood that is not an inhibition of free speech. We are already outside of the free speech realm when we are talking about the safety and well-being of the people in the circumstance that I have given regarding a mom with kids in the back whose travel has been obstructed. Because in this circumstance, Mr. Asbridge, this bill should it become law, is constitutional in that it protects the rights of the mom driving the vehicle from encroachment by other citizens. Once the car is forced to be stopped, that is a seizure. I wanted to explain to you why I would find that this is something that is worthy of discussion and not as much distain as your testimony suggests.

Tom Asbridge: Protest is fundamental. Protesting is one of the only methods that people have to be heard. We are always passing laws to prohibit it, so if they don't break those laws, they will get nowhere. I'm not supporting the protest or even what it is about, but I am supporting the right to do it. This is an inhibition to those rights. I think it is wrong for us to do this. I would urge the committee to kill this in committee and any other legislation that is coming out of the committee about the protest.

Chairman Ruby: I have mentioned that once a bill has been heard, it cannot be withdrawn. Our system here in North Dakota is very open. Bills come before the legislature, and the person that proposed the bill gets a chance to explain their view before this body. This is the people's house. Some bills may get in that people don't like, and they often get attention. In our system they all get a hearing. In many states the chairman can keep a bill in the drawer or kill it in committee, and it never sees the main body. That doesn't happen in North Dakota. Every bill gets its hearing. The only thing this committee can do is recommend DO PASS or DO NOT PASS. The bill then gets its vote on the floor. Then if it passes, it goes to the Senate for the same thing.

Tom Asbridge: I am proud to be part of that system in North Dakota which is unique. It restricts your power as a chairman, and then we have the opportunity to speak out and lobby the rest of the legislature. I would like to see a DO NOT PASS on HB 1203.

1:31:30

Terri Wilkerson, Michigan, I came to North Dakota as an invited guest to support the peaceful protest that I saw going on at Standing Rock for both water rights and indigenous rights. I feel very passionate about opposing HB 1203. I feel the fear that is behind the bill. I have been living in the camp since October. I think that there are so many wonderful people here in North Dakota on both sides of the issue. I strongly encourage you to move past the fear that is motivating some of these bills. We have so much more in common with each other than we have to disagree about. I feel that is getting completely lost. It is time for the protests to end, and they are. I came as invited guest and am leaving because I was asked to go home. I have largely found prayerful and peaceful people. Any time you have a large number of people you have a few crazies. There are crazies in the protest camp, but I think there are a few crazies here too. We want to diminish that and stand on the side of love.

I oppose this bill because I feel that it gives frustration a target. It allows someone to act out their fear in a harmful way. There are so many unintentional consequences to the bill, and I would really like you to think about them as you discuss this in committee. There will be law suits for years to come, and it will cost the state a lot of money. There are other consequences that have been brought forward by others. I came to support the tribe, but stayed because of the civil rights abuses.

1:36:20

Casey Buckmann, Washburn, spoke to oppose HB 1203. It was stated that this is a simple bill. It is simple because it is simply not needed. We have laws on books that already cover this situation.

1:38:00

Eden Stramer, Bismarck, spoke to oppose HB 1203. Written testimony was provided. See attachment # 9.

1:41:00

Carol Plain, Bismarck resident, spoke to oppose HB 1203. This bill has unintended consequences that are long term and may be dangerous for people like my grandfather. He sneaks out of the house at night and walks down the street. I don't want someone to plow him down at night because they don't like old people or don't feel like stopping. They could use the excuse that it was unintentional and get away with killing someone that I care about. This could pertain to children as well that might be walking on the road. The bill has consequences for the people of North Dakota that has nothing to do with the protests. Some of the people are at risk, and I am worried about these people being victims of a bill like this. The protests will end, but the law will go on. I don't want some crazy person to be allowed to kill people because we want to respond to something that we don't like. We have other resources that are available to us to keep us from being mobbed by protestors. We can't prove someone's intent. I oppose the bill, maybe another bill can be written that doesn't put our citizens at risk.

There was no further testimony on HB 1203.

The hearing was closed on HB 1203.

Chairman Ruby: We will not act on the bill today, but I would like to entertain a motion for the new language.

Representative Nelson disagreed that the amendment would fix the bill, but moved the amendment 17.035.01001.

Vice Chairman Rick C. Becker seconded the motion.

There was no discussion on the amendment at this time.

A voice vote was taken. All voted aye. The motion carried.
The bill will be taken up again next week.

2017 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1203
2/2/2017
#27178

- Subcommittee
 Conference Committee

Committee Clerk Signature

Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to the liability exemption of a motor vehicle driver; and relation to pedestrians.

Minutes:

Chairman Ruby brought HB back before the committee.

Chairman Ruby: We made an amendment to this bill. Review of amendment.

On Friday afternoon I spoke with Troy Siebel from the Attorney General's Office about this bill. We discussed the issue of reasonable care. The insurance companies always assign a percentage of blame. Legally intent is an important thing. Representative Kempenich's whole purpose was to take some of the liability for the injury off of the driver, to some extent, and putting more of it onto the person who is intentionally obstructing the road or traffic illegally. After speaking with Mr. Siebel, I feel comfortable that the bill doesn't go too far, and just give someone permission to run people over. It does what Representative Kempenich intended, which is to shift more of the responsibility on the person who is obstructing the road.

Representative Weisz: Do we have a definition in code for intentionally?

Troy Siebel, Chief Deputy Attorney General: There are several levels of what we would call requisite intent: negligently, recklessly, willingly, knowingly, intentionally. They go up in terms of the intent of a person. They are set forth in criminal code.

Representative Weisz: In reality it would be up to the court to decide if the person was actually intentionally obstructing vehicular traffic?

Troy Siebel: That is correct.

Representative Weisz: Will it have to rise to a certain level of intent for this phase?

Troy Siebel: Yes, you would have to show that the person obstructing traffic **intended** to obstruct traffic. It would have to be a showing of that person's mental state. Not that they were negligently obstructing traffic, but that they were **intending** to obstruct traffic.

Representative Sukut: If we don't pass that bill, where are we at in those situations with current law?

Troy Siebel: That is a good question. Our current legal system would shift legal responsibility to a person who ran out into the middle of the road. If I am driving 100 mph down the road in a 40 mph zone, and I am not watching for pedestrians and hit a pedestrian, then it is likely that the legal system will allocate responsibility on me as the driver.

Representative Sukut: If we pass this law, will it make the situation clearer or will it make it more difficult?

Troy Siebel: I think that there will be an element wondering what the legislature meant when it passed the statute.

Vice Chairman Rick C. Becker: In a situation where a driver is surrounded by a mob, does this bill give distinctive protections other than what we currently have in law, or is it just adding on language without giving additional protections to the person trying to extricate themselves from a very bad situation.

Troy Siebel: Current law will decide how much criminal culpability I have as a driver. If I am surrounded by a mob and trying to get out, there would be a self-defense element that we have in all of crimes. If you are acting in self-defense, that may be a valid defense. The bill lays out a very clear self-defense mechanism in terms of if someone is intentionally obstructing traffic. It would provide a defense to a driver that tried to extricate themselves from the mob. That same argument could still be made under our current criminal code, but this actually lays it out specifically in statute.

Chairman Ruby: What if there is a line of protestors across the front of the road, so they are obstructing, but not reaching for anything. The driver decides that he has to get from Point A to Point B, and there is traffic backed up behind him, and he can't go anywhere. Does this give them the ability to move with reasonable care up to the line of obstruction and force them to part?

Troy Siebel: It may; it depends on how the situation plays out.

Chairman Ruby: If someone got hurt in that situation, would this bill protect that driver better?

Troy Siebel: As far as civil liability, I would need to be clear that I am exercising reasonable care. Then I have to be in a position that I am not acting negligently. If a court determines that I am exercising reasonable care, then yes, the bill would help.

Representative Schobinger: Section 1 references the insurance part of the code. The way the bill was originally written. I imagine the insurance companies were quietly very happy with it, because I could have negligently run a crowd of people down and not have been liable. The way things currently work, when the EMTs come out, they run a tally of the damages and send it to an insurance company. The insurance company will then pay that. At that point if I was cited in any form, the way the bill was originally written that couldn't

happen anymore. It looks like it is releasing that person from responsibility. It seems like the way the amendments are coming in; it is putting the situation right back to the way that it currently exists. The insurance company will say: if you run someone down, that is not reasonable care, and they will have to pay the claim. Do you see that the same way? The payout for the insurance side of things could go from being nothing, to having to pay in every case if the driver is cited.

Troy Siebel: I can't comment on how insurance companies view the bill, but current law does do that. The way that I understand the amendment, it essentially keeps that same mechanism in place.

Representative Jones: The person in a vehicle traveling is engaged in a legal activity, but the people blocking the road are engaged in an illegal activity. Why isn't there discussion about the people engaged in an illegal activity while the other is engaged in a legal activity?

Troy Siebel: I think current law does do that. We do look at whether the conduct I am engaging in is legal.

Representative Paur: The Association of Justice was opposed to the bill. They said adding amendments helps the bill, but it is still a bad bill. It is not possible to clean up this bill. So, you basically don't see it that way?

Troy Siebel: I don't have an opinion on the bill. Ultimately, that will be up to this body to decide how it wants to set policy for the state in terms of the criminal code and civil liability. I am just here to answer legal questions.

Chairman Ruby: Back to Vice Chairman Rick C. Becker's question, current practice and assigning blame. The intent of the bill was to shift more of the liability to the person obstructing. It sounds like even if this is passed, that the same practice will take place. Is it really accomplishing anything in shifting some of the liability, civilly or criminally?

Troy Siebel: I think the bill is written so that it would. If I am driving down the road and obeying the laws and see someone in the middle of the road. I have a legal obligation to attempt to avoid hitting that pedestrian. The bill would appear to possibly remove some of the responsibility on the driver. That is the way that it is written, even with the amendment. There would have to be intentional obstruction with the amended language.

Representative Sukut: I think the bill probably has merits, but we already have a lot of existing laws that handle this situation. I think if we pass the bill, it will be interpreted by many as giving the person in the car the ability to run over someone. I think the negative ramifications are not good.

**Representative Sukut moved a DO NOT PASS AS amended on HB 1203.
Representative Westlind seconded the motion.**

Vice Chairman Rick C. Becker: I will resist the motion. I understand and don't disagree with Representative Sukut's comments. This does have some unfortunate optics. If this were to pass, there will be people screeching that North Dakota's just passed a bill to make

murder legal with a vehicle. In my opinion we have to resist that type of thing. There are many bills that will be twisted and spun and misconstrued intentionally. The reason I will resist is that it sounds as though this does afford additional protection. As we seem to continue with this problem in our nation, with the inability to have civil discourse and disagreement; we have seen with the NO DAPL protests exactly what happens. There seems to be a jump to illegal activity in order to protest. DAPL will go away, but then there will be something else. I don't like the idea of people being stuck in a situation and being fearful that they cannot do anything for fear of being sued because they injured someone's toes.

Representative Schobinger: The change that was made in the amendments from negligently to while exercising reasonable care, really made a big change. I wondering why the sponsor of the bill didn't just amend it to take out negligently. Then it would say if it can be proved that someone is obstructing the road, you are not held liable. We know how insurance companies operate. When there is a claim against that insurance policy, and someone is injured by my motor vehicle, I can't imagine that the insurance company will say in any case, that I exercised reasonable care. I may support the motion, but that section of the law probably doesn't need to be in there anymore, because it takes it right back to where it was before.

Representative Grueneich: To clarify the way you would interpret this as an insurance agent, if I am out at the DAPL protest, they are obstructing traffic. I drive through the obstruction and someone gets hurt. Am I liable, the way the bill is currently written?

Representative Schobinger: It is just like if you are driving down the road and run into a pole. You have someone in the vehicle with you. They are injured, and the EMTS have to take that person to the hospital, or there is any kind of expense. That claim will be made against your insurance policy because you were driving. The insurance company will just pay it. What this bill is trying to do as I understand it is to take that liability away. If I run through, and the EMT's and the ambulance have to take that person somewhere, and there is a cost involved. If they don't have the ability to pay on the spot, the EMTs will send the bill to my insurance. My insurance will pay it because I am the one that caused it.

Chairman Ruby: The way that I read it, it gives the driver a little more leverage to put more of the percentage of fault on the other person.

Representative Schobinger: I can't imagine a situation in which an insurance would view running someone over, as exercising reasonable care or potentially a judge and jury.

Representative Westlind: I don't think we are solving anything with this bill. I think we have enough laws on the book already that will take care of this. I feel that it comes strictly out of the DAPL protests. I will not support the bill.

**A roll call vote was taken on HB 1203: Aye 8 Nay 4 Absent 2
The motion carried.**

Representative Paur will carry HB 1203.

2/2/17 DA

17.0351.01001
Title.02000

Prepared by the Legislative Council staff for
Representative Kempenich
February 2, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1203

Page 1, line 8, replace "negligently" with ", while exercising reasonable care."

Page 1, line 9, after "individual" insert "who is intentionally"

Page 2, line 2, after "individual" insert "who is intentionally"

Renumber accordingly

Date: 1-20-17
Roll Call Vote #: _____

**2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1203**

House Transportation Committee

Subcommittee

Amendment LC# or Description: 17.0351.01001

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 Nelson Seconded By Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby			Rep. Gretchen Dobervich		
Vice Chair. Rick C. Becker			Rep. Marvin Nelson		
Rep. Bert Anderson					
Rep. Jim Grueneich					
Rep. Terry Jones					
Rep. Emily O'Brien					
Rep. Mark Owens					
Rep. Gary Paur					
Rep. Randy Schobinger					
Rep. Gary Sukut					
Rep. Robin Weisz					
Rep. Greg Westlind					

*All
Aye -
Motion
carried*

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2/2/17
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1203**

House Transportation Committee

Subcommittee

Amendment LC# or Description: 17.0351-01001

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 Sukut Seconded By Westlind

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby		X	Rep. Gretchen Dobervich	A	
Vice Chair. Rick C. Becker		X	Rep. Marvin Nelson	A	
Rep. Bert Anderson	X				
Rep. Jim Grueneich	X				
Rep. Terry Jones	X				
Rep. Emily O'Brien		X			
Rep. Mark Owens	X				
Rep. Gary Paur	X				
Rep. Randy Schobinger	X				
Rep. Gary Sukut	X				
Rep. Robin Weisz		X			
Rep. Greg Westlind	X				

Total (Yes) 8 No 4

Absent 2

Floor Assignment Paur

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

REPORT OF STANDING COMMITTEE

HB 1203: Transportation Committee (Rep. D. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (8 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). HB 1203 was placed on the Sixth order on the calendar.

Page 1, line 8, replace "negligently" with ", while exercising reasonable care."

Page 1, line 9, after "individual" insert "who is intentionally"

Page 2, line 2, after "individual" insert "who is intentionally"

Renumber accordingly

2017 TESTIMONY

HB 1203

HB 1203
1-20-17
#1
Page 1

**CHAPTER 32-03.2
FAULT, DAMAGES, AND PAYMENTS**

32-03.2-01. Definition.

As used in this chapter, "fault" includes acts or omissions that are in any measure negligent or reckless toward the person or property of the actor or others, or that subject a person to tort liability or dram shop liability. The term also includes strict liability for product defect, breach of warranty, negligence or assumption of risk, misuse of a product for which the defendant otherwise would be liable, and failure to exercise reasonable care to avoid an injury or to mitigate damages. Legal requirements of causal relation apply both to fault as the basis for liability and to contributory fault.

32-03.2-02. Modified comparative fault.

Contributory fault does not bar recovery in an action by any person to recover damages for death or injury to person or property unless the fault was as great as the combined fault of all other persons who contribute to the injury, but any damages allowed must be diminished in proportion to the amount of contributing fault attributable to the person recovering. The court may, and when requested by any party, shall direct the jury to find separate special verdicts determining the amount of damages and the percentage of fault attributable to each person, whether or not a party, who contributed to the injury. The court shall then reduce the amount of such damages in proportion to the amount of fault attributable to the person recovering. When two or more parties are found to have contributed to the injury, the liability of each party is several only, and is not joint, and each party is liable only for the amount of damages attributable to the percentage of fault of that party, except that any persons who act in concert in committing a tortious act or aid or encourage the act, or ratifies or adopts the act for their benefit, are jointly liable for all damages attributable to their combined percentage of fault. Under this section, fault includes negligence, malpractice, absolute liability, dram shop liability, failure to warn, reckless or willful conduct, assumption of risk, misuse of product, failure to avoid injury, and product liability, including product liability involving negligence or strict liability or breach of warranty for product defect.

32-03.2-02.1. Automobile accident damage liability.

Notwithstanding section 32-03.2-02, in an action by any person to recover direct and indirect damages for injury to property, the damages may not be diminished in proportion to the amount of contributing fault attributable to the person recovering, or otherwise, if:

1. The person seeking damages is seeking property damages resulting from a motor vehicle accident in which two persons are at fault;
2. The person seeking damages is seeking to recover direct physical property damages of not more than five thousand dollars and indirect physical property damages not to exceed one thousand dollars; and
3. The percentage of fault of the person against whom recovery is sought is over fifty percent.

This section applies regardless as to whether the person seeking direct and indirect damages for injury to property also seeks damages for personal injury, however, damages for personal injury are not available under this section.

32-03.2-03. Pure comparative fault - Product liability actions.

Repealed by S.L. 1993, ch. 324, § 5.

32-03.2-04. Economic and noneconomic damages for wrongful death or injury to person.

In any civil action for damages for wrongful death or injury to a person and whether arising out of breach of contract or tort, damages may be awarded by the trier of fact as follows:

1. Compensation for economic damages, which are damages arising from medical expenses and medical care, rehabilitation services, custodial care, loss of earnings

39-10-29. Crossing at other than crosswalk.

1. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.
2. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.
3. Between adjacent intersections at which traffic-control devices are in operation, pedestrians may not cross at any place except in a marked crosswalk.
4. No pedestrian may cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

39-10-30. Driver to exercise due care.

Notwithstanding other provisions of this chapter or the provisions of any local ordinance, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused, incapacitated, or intoxicated person.

39-10-31. Protection of blind or incapacitated pedestrians.

Repealed by S.L. 1975, ch. 347, § 25.

39-10-32. Pedestrians to use right half of crosswalks.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

39-10-33. Pedestrian on roadway.

1. Where a sidewalk is provided and its use is practicable, it is unlawful for any pedestrian to walk along and upon an adjacent roadway.
2. Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.
3. Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk only on the left side of the roadway.
4. Except as otherwise provided for in this chapter, any pedestrian upon a roadway shall yield the right of way to all vehicles upon the roadway.

5

39-10-33.1. Pedestrian's right of way on sidewalk.

The driver of a vehicle shall yield the right of way to any pedestrian on a sidewalk.

39-10-33.2. Pedestrian to yield to authorized emergency vehicles.

1. Upon the immediate approach of an authorized emergency vehicle making use of an audible signal by bell, siren, or exhaust whistle and displaying a visible flashing, revolving, or rotating blue, white, or red light, every pedestrian shall yield the right of way to the authorized emergency vehicle.
2. This section does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian.

39-10-33.3. Blind pedestrian right of way.

The driver of a vehicle shall yield the right of way to an individual who is blind or visually impaired and carrying a clearly visible white cane or to an individual with a disability who is accompanied by an assistance dog.

**CHAPTER 12.1-02
LIABILITY AND CULPABILITY**

12.1-02-01. Basis of liability for offenses.

1. A person commits an offense only if the person engages in conduct, including an act, an omission, or possession, in violation of a statute which provides that the conduct is an offense.
2. A person who omits to perform an act does not commit an offense unless the person has a legal duty to perform the act, nor shall such an omission be an offense if the act is performed on the person's behalf by a person legally authorized to perform it.

12.1-02-02. Requirements of culpability.

1. For the purposes of this title, a person engages in conduct:
 - a. "Intentionally" if, when he engages in the conduct, it is his purpose to do so.
 - b. "Knowingly" if, when he engages in the conduct, he knows or has a firm belief, unaccompanied by substantial doubt, that he is doing so, whether or not it is his purpose to do so.
 - c. "Recklessly" if he engages in the conduct in conscious and clearly unjustifiable disregard of a substantial likelihood of the existence of the relevant facts or risks, such disregard involving a gross deviation from acceptable standards of conduct, except that, as provided in section 12.1-04-02, awareness of the risk is not required where its absence is due to self-induced intoxication.
 - d. "Negligently" if he engages in the conduct in unreasonable disregard of a substantial likelihood of the existence of the relevant facts or risks, such disregard involving a gross deviation from acceptable standards of conduct.
 - e. "Willfully" if he engages in the conduct intentionally, knowingly, or recklessly.
2. If a statute or regulation thereunder defining a crime does not specify any culpability and does not provide explicitly that a person may be guilty without culpability, the culpability that is required is willfully.
3.
 - a. Except as otherwise expressly provided, where culpability is required, that kind of culpability is required with respect to every element of the conduct and to those attendant circumstances specified in the definition of the offense, except that where the required culpability is "intentionally", the culpability required as to an attendant circumstance is "knowingly".
 - b. Except as otherwise expressly provided, if conduct is an offense if it causes a particular result, the required degree of culpability is required with respect to the result.
 - c. Except as otherwise expressly provided, culpability is not required with respect to any fact which is solely a basis for grading.
 - d. Except as otherwise expressly provided, culpability is not required with respect to facts which establish that a defense does not exist, if the defense is defined in chapters 12.1-01 through 12.1-06; otherwise the least kind of culpability required for the offense is required with respect to such facts.
 - e. A factor as to which it is expressly stated that it must "in fact" exist is a factor for which culpability is not required.
4. Any lesser degree of required culpability is satisfied if the proven degree of culpability is higher.
5. Culpability is not required as to the fact that conduct is an offense, except as otherwise expressly provided in a provision outside this title.

12.1-02-03. Mistake of fact in affirmative defenses.

Unless otherwise expressly provided, a mistaken belief that the facts which constitute an affirmative defense exist is not a defense.



RADICALS

In any tactical scenario, knowing the opposition's moves and methods beforehand gives an unprecedented advantage. The methods found in this simple playbook have been the hidden force behind Progressive Leftist politics and media for the last fifty years. Let's take a look.

In 1971, a hard Left, Progressive community organizer named Saul D. Alinsky, wrote a playbook of subversive tactics to empower an upcoming generation of change agents. A few notable adherents to the Alinsky method are: Bill Ayers, Bernardine Dohrn, Bill and Hillary Clinton, Frank Marshall Davis and President Barack Obama.

Progressives exploit the weaknesses inherent in the system, made weaker by pitting opposing forces against one another. They also oppose independent, morally strong, educated people because those individuals, especially in groups, can't be manipulated easily. They attempt to end-run constitutional rights with social contract and dialectic consensus methods. Alinskyites engage in large scale social engineering, attempting to unfreeze a society using chaos, and to then refreeze it in a new predefined shape. The dividing lines they polarize people on are most often racial, economic, religious and political.

The main goal of Alinskyites is to cause social instability through subversive and divisive rhetoric. One method is to control the outcome of the education system by lowering the standards of education so that it creates a dependent class. As adherents to the Cloward-Piven strategy, they use their political platforms to overload a society with social spending programs and class warfare to the point that hatred and division cause social panic. Once they've created a problem, they propose themselves as the answer and use wealth transfers and the trumping of rights as the method to bring about "equality".

The purpose of exposing the Alinsky method is to equip the next generation to identify and defeat

these divisive tactics. Many people aren't even aware that they are being manipulated; in essence weaponized against their fellow man. The next time a Progressive opens his or her mouth, be armed with this playbook so you can spot the tactics they employ and from whom the argument originates.

“Lest we forget at least an over-the-shoulder acknowledgment to the very first radical: from all our legends, mythology, and history (and who is to know where mythology leaves off and history begins — or which is which), the first radical known to man who rebelled against the establishment and did it so effectively that he at least won his own kingdom — Lucifer.”

— Saul D. Alinsky, Rules for Radicals: A Pragmatic Primer for Realistic Radicals

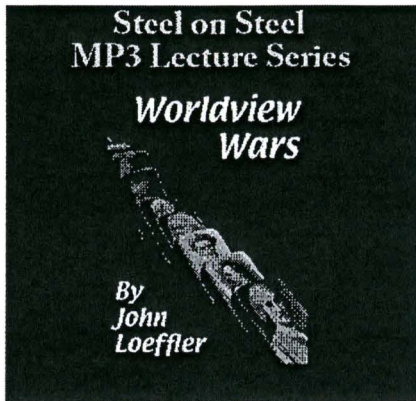
Alinsky's 12 Rules:

1. ***“Power is not only what you have, but what the enemy thinks you have.”*** Power is derived from 2 main sources – money and people. “Have-Nots” must build power from flesh and blood.
2. ***“Never go outside the expertise of your people.”*** It results in confusion, fear and retreat. Feeling secure adds to the backbone of anyone.
3. ***“Whenever possible, go outside the expertise of the enemy.”*** Look for ways to increase insecurity, anxiety and uncertainty.
4. ***“Make the enemy live up to its own book of rules.”*** If the rule is that every letter gets a reply, send 30,000 letters. You can kill them with this because no one can possibly obey all of their own rules.
5. ***“Ridicule is man's most potent weapon.”*** There is no defense. It's irrational. It's infuriating. It also works as a key pressure point to force the enemy into concessions.
6. ***“A good tactic is one your people enjoy.”*** They'll keep doing it without urging and come back to do more. They're doing their thing, and will even suggest better ones.
7. ***“A tactic that drags on too long becomes a drag.”*** Don't become old news.
8. ***“Keep the pressure on. Never let up.”*** Keep trying new things to keep the opposition off balance. As the opposition masters one approach, hit them from the flank with something new.
9. ***“The threat is usually more terrifying than the thing itself.”*** Imagination and ego can dream up many more consequences than any activist.
10. ***“If you push a negative hard enough, it will push through and become a positive.”*** Violence

from the other side can win the public to your side because the public sympathizes with the underdog.

11. ***“The price of a successful attack is a constructive alternative.”*** Never let the enemy score points because you’re caught without a solution to the problem.

12. ***“Pick the target, freeze it, personalize it, and polarize it.”*** Cut off the support network and isolate the target from sympathy. Go after people and not institutions; people hurt faster than institutions.



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(http://www.dictionary.com/) definitions ▾ protest



CITE

protest

[noun **proh**-test; verb **pruh**-test, **proh**-test]

Spell Syllables

Synonyms Examples Word Origin

See more synonyms on Thesaurus.com (http://www.thesaurus.com/browse/protest)

noun

- an expression or declaration of objection, disapproval, or dissent, often in opposition to something a person is powerless to prevent or avoid:
a protest against increased taxation.
- Commerce.
 - a formal notarial certificate attesting the fact that a check, note, or bill of exchange has been presented for acceptance or payment and that it has been refused.
 - the action taken to fix the liability for a dishonored bill of exchange or note.
- Law.
 - (upon one's payment of a tax or other state or city exaction) a formal statement disputing the legality of the demand.
 - a written and attested declaration made by the master of a ship stating the circumstances under which some damage has happened to the ship or cargo, or other circumstances involving the liability of the officers, crew, etc.
- Sports. a formal objection or complaint made to an official.

verb (used without object)

- to give manifest expression to objection or disapproval; remonstrate.
- to make solemn or earnest declaration.

verb (used with object)

- to make a protest or remonstrance against; object to.
- to say in protest or remonstrance.
- to declare solemnly or earnestly; affirm; assert.
- to make a formal declaration of the nonacceptance or nonpayment of (a bill of exchange or note).
- Obsolete.* to call to witness.

Origin of protest

Middle English (http://www.dictionary.com/browse/middle-english) French (http://www.dictionary.com/browse/french) Latin (http://www.dictionary.com/browse/latin)

1350-1400

1350-1400; (noun) Middle English < Middle French (French *protêt*), derivative of *protester* to protest < Latin *prōtestārī* to declare publicly, equivalent to *prō-* pro- (http://www.dictionary.com/browse/pro-) + *testārī* to testify, derivative of *testis* a witness; (v.) late Middle English *protesten* < Middle French *protēster*

Word of the Day

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Difficulty index for protest

Most English speakers likely know this word

Word Value for protest

9 10

Scrabble Words With Friends

Related Words

- occupy (http://www.dictionary.com/browse/occupy)
- declare (http://www.dictionary.com/browse/declare)
- protestation (http://www.dictionary.com/browse/protestation)
- remonstrate (http://www.dictionary.com/browse/remonstrate)
- sit-in (http://www.dictionary.com/browse/sit-in)
- squeal (http://www.dictionary.com/browse/squeal)

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Nearby words for protest

- proteose (http://www.dictionary.com/browse/proteose)
- proteoses (http://www.dictionary.com/browse/proteoses)
- protero- (http://www.dictionary.com/browse/protero-)
- proterotype (http://www.dictionary.com/browse/proterotype)
- proterozoic (http://www.dictionary.com/browse/proterozoic)
- protest

Ghosting Video (http://blog.dictionary.com/ghosted-video/?src=ddom-serp)

http://blog.dictionary.com Unlucky



terrorism definition



ALL BOOKS NEWS IMAGES VIDEOS MAPS SHOPPING FLIGHTS

ter·ror·ism

/ˈterəˌrɪzəm/

noun

the unlawful use of violence and intimidation, especially against civilians, in the pursuit of political aims.
"the fight against terrorism"

Feedback

▼ Translations and more definitions

Terrorism | Definition of Terrorism by Merriam-Webster

Merriam-Webster › dictionary › terrorism

Legal Definition of terrorism. 1 : the unlawful use or threat of violence especially against the state or the public as a politically motivated means of attack or coercion. 2 : violent and intimidating gang activity <street terrorism>

Terrorism | Define Terrorism at Dictionary.com

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the use of violence and threats to intimidate or coerce, especially for political purposes. 2. the state of fear and submission produced by terrorism or terrorization. 3. a terroristic method of governing or of resisting a government.

Terrorism — FBI

Federal Bureau of Investigation (.gov) › t...

Definitions of Terrorism in U.S. Code. 18 U.S.C. § 2331 defines "international terrorism" and "domestic terrorism" for purposes of Chapter 113B of the U.S. Code, entitled "Terrorism."
"International terrorism ...

17.0351.01001
Title.

Prepared by the Legislative Council staff for
Representative Kempenich
January 16, 2017

HB 1203
1-20-17
#2

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Support

HB 1203
1-20-17
#3

**North Dakota Stockmen's Association
Testimony on HB 1203
Jan. 20, 2017**

Good morning, Mr. Chairman and House Transportation Committee members. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association, an 87-year-old, 3,000-plus-member cattle producers' trade organization.

The North Dakota Stockmen's Association supports limiting the liability of those who unintentionally cause injury or death to someone who purposely obstructs roadways. Unfortunately, many of our members in Morton County and adjacent counties have had to deal with obstructed roads over the past five months as the Dakota Access Pipeline protest has waged on.

Living in that area, my family is among those who have had firsthand experience being stopped by protesters blocking the roads by congregating on them or parking their vehicles in the middle of the road. I recall many days that protesters criss-crossing the highway with flags and signs a few miles up the road on my journey to and from work.

One neighbor recounts a terrifying experience he had when masked protesters surrounded him in his vehicle while he was driving a farm-to-market road on his way into town to pick up supplies and his children from school. The protesters pressed their faces and their video cameras up against the windows of his pickup. He didn't know what to do and slowly kept driving, scared for his life and trying to avoid a confrontation. Another neighbor recounts driving along Highway 6 with a potload of feeder calves headed to the auction market.

Imagine his fear when he saw about one hundred people standing in the middle of the road

as he crested the hill and had to slam on the breaks and pray that he would be able to stop in time. Another neighbor had a similar experience with his semi-trailer hauling a combine to a faraway field. Thank goodness he too was able to stop and no one got hurt.

What would have happened if these stories hadn't turned out this way? What if one of these farmers or ranchers couldn't have stopped and unintentionally injured or even killed someone? Not only would they have had to live with that on their heart and mind for the rest of their life, but they could have been held liable and risked losing everything they had.

HB 1203 aims to protect those, who at no fault of their own, experience a nightmare like just described at the hands of those who purposely place themselves in a dangerous place to capture attention and raise havoc.

It is important to note that while we agree with the bill in principle, we have concerns about its vague language and how it could be used to inadvertently apply in situations when people are moving cattle on foot, for instance. We also think that the language could be improved so it is explicitly clear that it only applies when the act is unintentional and when those obstructing the roadways are intentionally doing so. We do not condone someone who purposely tries to hurt another person. These concerns must be addressed through amendments in order to make the bill workable in our eyes.

Thank you for your consideration of these thoughts and concerns.

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Testimony on House Bill 1203
North Dakota House Transportation Committee
Andrew Alexis Varvel
January 20, 2017

Chairman Ruby, Members of the Committee, Ladies and Gentleman,

Over the past sixteen years, Fanatical Muslim Fascists have put the civilized world under siege. One of their favorite tactics is vehicular homicide.

On March 3, 2006, Mohammed Reza Taheri-azar injured nine people by ramming them with his sport utility vehicle in Chapel Hill, North Carolina.

On August 30, 2006, Omeed Aziz Popal killed one person in Fremont, California and injured several others in San Francisco. His weapon of choice was a Honda Pilot sport utility vehicle.

On July 2, 2008, Hussam Taysir Duwait rammed a front-end loader into a crowd in Jerusalem, killing three people and injuring dozens of others.

On September 22, 2008, Qassem Mughrabi rammed and injured nineteen people in Jerusalem.

On October 22, 2014, Abdel-Rahman Shaloudi rammed his father's car into a light rail station in Jerusalem, killing two people and injuring seven others.

On July 14, 2016, Mohamed Lahouaiej-Bouhlel rammed a nineteen ton cargo truck into a crowd of pedestrians celebrating Bastille Day in Nice, France, killing 86 people and injuring 434 others.

On November 28, 2016, Abdul Razak Ali Artan rammed his car into several pedestrians in Columbus, Ohio.

On December 19, 2016, Anis Amri rammed a stolen truck into a Christmas market in Berlin, Germany, killing twelve people and injuring fifty-six others.

On January 8, 2017, Jabel Mukaber rammed his truck into pedestrians in Jerusalem, killing four people and injuring fifteen.

Look it up on Wikipedia.

Of course, the most famous instance of vehicular assault by Fanatical Muslim Fascists was the wanton destruction of a Mohawk Indian artifact also known as the World Trade Center, on September 11, 2001, an attack which resulted in the murder of thousands of people inside.

House Bill 1203 is an abomination. It would give aid and comfort to al-Qaeda. It would give aid and comfort to Hamas. It would give aid and comfort to Hezbollah. It would give aid and comfort to ISIL, also known as Da'esh, or Dasht. If passed, House Bill 1203 would sent a clear and unequivocal message to some very bad people that vehicular homicide is welcome in the State of North Dakota.

Exasperation with pipeline protesters is no excuse for stupidity. Momentary anger is no excuse for treason. I call upon the sponsors of House Bill 1203 to withdraw this bill, to spare the North Dakota Legislature of the embarrassment of even voting on this thing.

To quote a passage from chapter twelve of Sun Tzu's *The Art of War*,

"Do not start a war that is not in your national interests. Do not send troops if there is nothing to be gained. Do not fight unless national security is at stake. A ruler must never start a war merely to vent his anger. A general must never start a battle out of exasperation. Anger can turn to happiness and exasperation can turn to joy, but a state once destroyed cannot be restored and the dead cannot be brought back to life."

We should all be thankful that nobody has gotten killed at the pipeline protests, and if we all do our part, nobody will. House Bill 1203 would mean open hunting season on North Dakota pedestrians. If this bill's sponsors fail to withdraw this abomination, it deserves a DO NOT PASS recommendation from this committee and an overwhelming rejection on the House floor.

Thank you.

Andrew Alexis Varvel
2630 Commons Avenue
Bismarck, ND 58503

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Testimony of Lisa DeVille, Mandaree, North Dakota

House Bill 1203

January 20, 2017

Chairman Ruby & members of the committee:

My name is Lisa DeVille, and I'm a member of the Three Affiliated Tribes. I am here today to oppose House Bill 1203.

This bill's intent is to remove liability for a motorist who injures or kills anyone that happens to be in the street. What does that mean for construction workers? Police officers? Children who don't know the rules of the road?

We all know why this legislation has been sought. I won't pretend to know that I can understand the reasoning for such law to be put in place. I do know that a lot of people have differing opinions on current events, but we've reached this point because our law makers and administration stopped listening to the people.

Our law makers are here to represent all people of North Dakota. This bill is an overreaction to our past events, we need sound and just laws for this state and for our justice system. This bill will make vehicular homicide an arbitrary matter that will leave the justice system to decide whether a driver willfully chose to run over a pedestrian.

This bill is an abuse of the legislative process that has worked in this state for decades. It's time we stop using this process for discriminatory purposes. I urge you to give House Bill 1203 a DO NOT PASS.

Nicole Donaghy

Field Organizer

Oil and Gas

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DAKOTA RESOURCE COUNCIL - SINCE 1978

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HB1203
1-20-17
#6

From: mdhoff25 [mailto:mdhoff25@bis.midco.net]

Sent: Thursday, January 19, 2017 2:25 PM

To: Dobervich, Gretchen <gdobervich@nd.gov>; jgueneich@nd.gov; tjones@nd.gov; Nelson, Mark A. <mnelson@nd.gov>; O'Brien, Emily <eobrien@nd.gov>; Owens, Mark S. <mowens@nd.gov>; Ruby, Dan J. <druby@nd.gov>; Paur, Gary A. <gpaur@nd.gov>; Schobinger, Randy A. <rschobinger@nd.gov>; Sukut, Gary <gsukut@nd.gov>; Weisz, Robin L. <rweisz@nd.gov>; Westlind, Greg <gwestlind@nd.gov>; rbecker@nd.gov; banderson@nd.gov

Subject: PERMISSION TO RUN OVER PROTESTORS !

Importance: High

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

to: MEMBERS OF THE HOUSE TRANSPORTATION COMMITTEE:

ARE WE LIVING IN THE PHILIPPINES – ?? Where Duterte has given everyone permission to kill their neighbors on their own judgment, without even any thought of the right to life, the rule of law, the principle of innocent until PROVEN guilty, the FIRST AMENDMENT right to free speech – which includes protesting laws and policies we object to.

This proposed law to release people from liability “if they hit a protestor” is a monstrous insult to all these long-cherished American principles and values. It would make a mockery of everything America supposedly stands for and would be another of those “waste of time” – and money -- bills introduced into the ND Legislature that could never stand a court challenge.

I live in Bismarck, I have visited the Standing Rock site at least 5 or 6 times since August. Does that give anyone a right to run over me?

This bill must not pass, SINCERELY, MARIE D HOFF, Jan. 19, 2017

From: Ruth Buffalo Zarazua [mailto:ruthiebuffalo@gmail.com]

Sent: Thursday, January 19, 2017 12:59 AM

To: Ruby, Dan J. <druby@nd.gov>

Subject: HB 1203

HB 1203
1-20-17
#7

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Dear Transportation Committee:

I am emailing you to share my grave concern regarding the proposed House Bill No. 1203. I believe this bill to be very dangerous to the safety of innocent human beings.

There are a couple of consistent legal criticisms:

1. The bill makes sweeping changes to both criminal and civil liability for cases of vehicular manslaughter. While this is enough cause for grave concern on behalf of protesters, who are being directly targeted by the bill, it could also create a very dangerous precedent and be exploited in completely non-politicized hit and run cases.
2. The bill makes changes that essentially negate criminal liability for negligence on the part of drivers if a pedestrian they hit happens to be off a sidewalk or shoulder. This is extraordinary, and is a dangerous legal precedent.

Furthermore:

1. A sponsor of this bill has admitted that it was directly targeted at pipeline protesters.
2. The bill threatens pipeline protesters with injury or death for exercising their first amendment rights.
3. This bill universally erodes legal defenses for North Dakota pedestrians when they are injured by motorists. It makes all pedestrians collateral damage in a politically motivated crusade against pipeline protesters.

Lastly, this bill fosters a sense of fear in all communities throughout North Dakota. Public health will be impacted as well as Tourism. People will refrain from going outdoors to get exercise in fear of a motorist running them over. I certainly do not feel comfortable with this bill as a mother and as a woman. Furthermore, as a Native American woman in North Dakota's current divisive climate. Do I want my children walking to the playground or just going for a walk outside to enjoy the beauty of North Dakota? Certainly not, if this bill is passed. Perhaps, many North Dakotans will leave our great state, including the most educated and talented. This bill will not only put innocent people at risk, but enable dangerous drivers including distracted drivers to get away with murder, literally. We as North Dakotans deserve better!! You have an opportunity to do the right thing. What legacy will you leave for your future generations?

Sincerely,
Ruth

--

Ruth Anna Buffalo, MGMT, MBA, MPH
Citizen of the Mandan Hidatsa Arikara Nation

cell (701) 516-6125

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1-20-17
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TESTIMONY OF HB 1203

Members of the Committee, I rise in opposition to HB 1203.

I speak to you as a citizen. I am representing no political party, organization or special interest group.

This is one of the most ill-conceived legislative proposals in North Dakota history and we have an ample supply of really bad proposals.

We have an abundance of serious problems in North Dakota and many are the results of the failed past actions of this body and the Governor. And you here have the audacity to waste valuable time instead of dealing with real issues. I question your motives here and must question the competency of this entire body for engaging in such behavior.

As a layperson, with an abundance of experience in legal matters, a working knowledge of the U.S. Constitution, this bill can in no way meet the Constitutional test. It is more than a simple political waste of time. It smacks of prejudice, racism and personal animosity regarding all Americans civil liberty, the lifeblood of our great Nation.

It is truly shameful and contemptible that any citizen needs to appear here to speak to this body on such matters. But in America, that is not only our right but our duty.

This is not about a difference of opinion. It is blatantly un-American. One has to question the amount of understanding of the American system of government and certainly any working knowledge of our Constitution.

I must remind all of you present in the room that our system is not intended merely to protect the citizens from outside harm or threats. On the contrary, it is designed to protect all of us from the greatest form of oppression and risk to our basic freedoms---OUR OWN GOVERNEMENT. You are proving the wisdom of the Founder's and the necessity of ordinary people to hold your actions in check.

My words here cannot adequately express my overwhelming concern at this and many other proposals along these lines. I would welcome your questions and hope that you would attempt to explain your reasoning in this matter. I doubt if any here can find any rational explanation for what is before us but I welcome your efforts here today.

Thank you for your courtesy.

Tom Asbridge

Bismarck, N.D.

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Vote "no" on House Bill 1203.

This bill is unnecessary and dangerous. The laws of the ND Century Code concerning pedestrians and traffic (specifically 39-10-27 through 39-10-34) are extensive and already adequately protect responsible drivers. This bill condones not only negligent driving, but the probable injury or death of North Dakotans as a direct result of negligent driving.

Sunday morning on my way to work (yes, liberals can have jobs too), I noticed my neighbor struggling with a shovel at the end of his driveway. In his distress, he had (without realizing it) taken a few steps out into the street to survey the problem area. If I were any less astute a driver (or heaven forbid, a negligent one) I could easily have hit him. I could easily have killed him.

When teaching me to drive, my parents always told me that cars are weapons. Just as it is the responsibility of a gun owner to practice safe handling to ensure that his or her weapon causes no injury to others, it is the responsibility of a car owner to practice safe driving methods to ensure that his or her car causes no injury to others. Driving is a privilege. With privileges come responsibilities, and the privilege of driving warrants constant vigilance and attentiveness to one's surroundings. It is a driver's responsibility to not run red lights, speed, cross over the median, or drive under the influence, or while texting or otherwise distracted, because these activities pose a threat to other drivers and most importantly, to pedestrians.

I realize that this bill is a response to the protest situation in Morton County. Regardless, negligent driving

is wrong and should be condemned, not encouraged to be used as a tool against protesters. That you would so willfully endanger the lives and rights of **all** North Dakotans in your crusade to trample the anti-DAPL protest disgusts me.

Drivers must be held accountable for their actions, especially if their negligence costs somebody their life. Long after this protest has been resolved, House Bill 1203 will continue to be used as the excuse of negligent drivers trying to get away with manslaughter. We are not just sliding on a slippery slope, we are hurtling across a patch of black ice that leads directly off a thousand-foot cliff. Trust me, I'm a North Dakotan, I may not see cliffs very often, but I know what ice looks like. Don't allow this bill to wreak havoc on our state - VOTE NO.