

2017 SENATE JUDICIARY

SB 2177

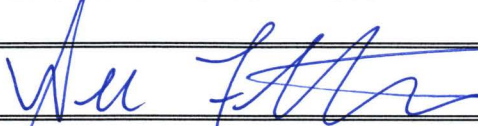
# 2017 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

SB 2177  
1/24/2017  
27284

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to temporary restricted licenses.

**Minutes:**

**Testimony attached #**

1

**Chairman Larson** called the committee to order on SB 2177. All committee members were present.

Chairman Armstrong is testifying so Senator Larson is acting chair.

**Senator Armstrong**, introduced and testified in support of the bill. He did an overview of the bill and discussed how we deliver criminal justice in the state of North Dakota.

"This bill deals with non-violent drug offenses and how we deal with those type of cases. I will be adding an amendment to this bill or any bill the committee decides to do that offers a 24/7 program or if your state doesn't have a 24/7 program, then whatever alcohol compliance program your state has. This doesn't affect North Dakota drivers but it does affects North Dakota warrants. If you live in Minnesota, they don't have a 24/7 program, they have interlock. Well if you're on your third DUI in North Dakota and say you live in Moorhead, you have a Minnesota license and you move back to Minneapolis, eventually what ends up happening is you can't comply with the 24/7 program because you are no longer in North Dakota. So we want to address some of those issues."

**Senator Osland:** "Who's in charge?"

**Senator Armstrong:** "Department of Transportation."

**Chairman Larson:** "So is this bill really about out of state compliance?"

**Senator Armstrong:** "No, but the amendment will be. This is about discretion with the Department of Transportation."

**Senator Myrdal:** "How does this relate to agriculture workers, farm machinery, trucks, those types of things?"

**Senator Armstrong:** "First thing is quit getting DUIs. As far as agriculture, that is controlled by your temporary restricted operators permit."

**Jackson Lofgren, President of the Association of Criminal Defense Lawyers,** testified in support of the bill. No written testimony.

"Driving under suspension is a huge problem in North Dakota, not only for the state but also for the individual. A person loses their license here in North Dakota and it's almost impossible to work, pick up your kids, go to school. We're not a state that has a lot of public transportation. As a former prosecutor I can tell you that one of the biggest crimes you see is driving under suspension. We think as long as they are compliant and remain drug free, they should be able to get a work permit so they can still get do their daily activities needed for them and their families."

**Senator Armstrong:** "If you're in 24/7 on your third offense and you violate 24/7 and get your 4<sup>th</sup> offense but then you re-enroll in the program, doesn't the director get some discretion in those situations? Like if you messed up dozens of times, does the director have discretion?"

**Jackson Lofgren:** "In that scenario, if it's a felony level offense, I think there's another statute that maybe kicks in that says the director doesn't give them the permit in that scenario."

**Glen Jackson, Director of the Driver's License Division at the North Dakota Department of Transportation,** testified in opposition of the bill. (see attachment 1)

**Senator Nelson:** "What happens to insurance during all of this? You have to have insurance to drive, does it get suspended, or how does that fit in here?"

**Glen Jackson:** "You have to have valid insurance before you can get your temporary license. Which is the beauty of the 24/7 program, you're in the program and you are allowed to drive, but you have to have insurance as well."

**Senator Nelson:** "I'd think once an offender gets to the third or fourth offense, insurance companies may not be happy with that person."

**Glen Jackson:** "The insurance is more expensive since they are considered high levels of risk."

**Senator Osland:** "My understanding is that the Sheriff's Department monitors the 24/7 program? Is there any way we could make it a little easier for those people to enroll and adhere? Say they live far away, could we modernize that?"

**Glen Jackson:** "Correct, the Sheriff's Department does monitor that, and modernization is out of my purview."

**Senator Armstrong:** "The county sheriffs administer the program, it was worked out through the AG's office, they have scam bracelets, if you are in a rural area, it is an ankle bracelet that tests your skin for alcohol. It's a deterrent because it's very large and sticks out."

**Senator Nelson:** "If those are so bulky how can someone be a farmer and wear those bulky things and boots?"

**Senator Armstrong:** "They got to pick. There are consequences for their actions."

**Senator Myrdal:** "We farm. Most of our workers show up in tennis shoes."

**Chairman Larson** closed the hearing on SB 2177.

No motions were made.



# 2017 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

SB 2177 Committee Work  
2/6/2017  
27947

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to temporary restricted licenses.

**Minutes:** **No written testimony**

**Chairman Armstrong** began the discussion on SB 2177. All committee members were present.

**Chairman Armstrong:** "This bill would take about three new sections of code to get it right, I don't know think it's worth it."

**Senator Larson** motioned Do Not Pass. **Senator Nelson** seconded.

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0.  
The motion carried.

**Chairman Armstrong** carried the bill.

**Chairman Armstrong** ended the discussion on SB 2177.

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2177

Senate Judiciary 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 Senator Larson Seconded By Senator Nelson

Senators	Yes	No	Senators	Yes	No
Chairman Armstrong	X		Senator Nelson	X	
Vice-Chair Larson	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Chairman Armstrong

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

**REPORT OF STANDING COMMITTEE**

**SB 2177: Judiciary Committee (Sen. Armstrong, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2177 was placed on the Eleventh order on the calendar.

**2017 TESTIMONY**

**SB 2177**



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**SENATE TRANSPORTATION COMMITTEE**  
**January 24, 2017; 9:30 AM, Ft. Lincoln Room**

**North Dakota Department of Transportation**  
**Glenn Jackson, Director, Driver's License Division**  
**Senate Bill 2177**

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Mr. Chairman, members of the committee, I am Glenn Jackson, Director of the Driver's License Division at the North Dakota Department of Transportation (DOT). Thank you for giving me the opportunity to address you today.

It is our understanding that SB2177 removes agency discretion regarding the issuance of a temporary restricted license (TRL), commonly referred to as a work permit, for an individual participating in the 24/7 program. The department does not use discretion in the vast majority of cases, as most situations are clear. In the only case I am aware of where we did use discretion the individual had committed three offenses and was on a TRL in 24/7 when he committed a fourth offense. While he did get back into the 24/7 program, we did not provide a TRL based on the drivers record.

The department used the discretion provided in NDCC 39-06.1-11(3) to deny the request, and referred to NDCC 39-06.1-10(4)(b), which provides a two year wait period after completion of treatment for those offenders with three or more offenses, to determine when he would be eligible to regain driving privileges.

Because it is our understanding that the bill removes this discretion and could have unintended consequence of putting a driver who is unready back on the road, the department opposes the bill.

The department supports the 24/7 program as a means to get drivers on the road with insurance. We have significantly increased the number of TRL's in the past two years. A significant portion of this increase is due to the ability we have to put someone into 24/7 for them to obtain a TRL.

CY2013	2983
CY2014	3520
CY2015	4015
CY2016	6556

While we use this program as much as possible, removing our discretion may cause us to put drivers who are not ready to demonstrate a positive change in driving behavior, back on the highway.

Mr. Chairman that concludes my testimony, I would be happy to answer any questions.