

2017 SENATE TRANSPORTATION

SB 2341

2017 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

SB 2341
2/3/2017
27875

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Mary Munder

Explanation or reason for introduction of bill/resolution:

Relating to requiring mud flaps on certain vehicles; relating to moving violations and preventing sifting or leaking loads; and to provide a penalty.

Minutes:

Attachments # 1-4

Chairman Laffen: Opened the hearing on SB 2341.

Attendance taken and all present.

Chairman Laffen: Anyone here to introduce SB 2341?

Senator Bekkedahl: This bill addresses multiple concerns relative to highway safety and damage issues. **See Attachment #1.** I am also handing out an amendment for you to look at with a copy of the bill. **See Attachment #1, pages 2,3,4 and 5.**

Chairman Laffen: Do you know in current statute if there is a requirement to have loads covered?

Senator Bekkedahl: I don't believe that is the case. The language states that the load has to be secured within the carrying facility but no requirement to tarp.

Senator Casper: We are requiring two things here, the tarps and the flaps. So if you have a tarp then use it? The flaps will be a more complicated issue I am thinking.

Senator Bekkedahl: Yes, you are right and I am pleased to have Captain Mehrer here to answer questions like that as he is the expert on that.

Chairman Laffen: Before we get to your amendment, reading through the bill there are no fines. Is that stated somewhere else? Are we saying thou shalt have mud flaps and if you don't the Highway Patrol will stop you and say you should do it?

Senator Bekkedahl: It is my understanding that the fines are located in other chapters or sections of the code dealing with fractions. Explains the amendment. See Attachment #1 page 2. If you have the equipment and you are loaded, then use the equipment.

Senator Nelson: Part of this deals with farming. Shouldn't the sugar beets be included in this?

Senator Bekkedahl: Agriculture will be exempted.

Senator Clemens: Why would this be limited to just commercial vehicles when the same safety issues are also with the farming equipment?

Senator Bekkedahl: I think in my discussions that was a 'bridge too far'. I heard from Legislators that have been here for a long time; don't put the bill in, it is going to get killed, you're going to get massacred, the industry is going to hate you, lots of bad things. I couldn't back away from the concerns over this, so I tried to make it as minimal as I could. The other thing these long standing legislators told me was to make sure you retain the exemptions for the farm operated vehicles and government operated vehicles.

Senator Clemens: I have commercial transporting myself and there are so many exemptions for farm commodities, and I think it was prevalent in the years when the farms had no semis, right now most farms do have them and we have heard testimony on how they create hazards and damage to the highways when you get down to the county and township levels and yet they are exempted from anything to licensing, CDL, and to items like this. I am just putting in a little comment here on the commercial businesses being highly restricted and the farmer's market stuff gets exempted.

Senator Bekkedahl: I totally get where you are going with that and they are valid concerns. I don't know if they apply to this certain bill. Companies coming from other states have the equipment and still do not use it when they come to our state. When asked why they don't, their comment is, because North Dakota does not require it by law. When asked nicely to use it anyway to protect our public the reply is my boss doesn't want me to use it because it is not required by law in N.D. That's not the reason for the bill but it did startle me that they had the equipment but did not use it.

Chairman Laffen: At one time the Legislature must have been 100% farmers because there isn't a day that goes by where I ask, why are they exempted? Any other questions? Further testimony in favor of SB 2341?

(17:17) Kevin Herrmann from Beulah: I support SB 2341. I am getting tired of driving a vehicle or motorcycle down one of our two lane highways behind overloaded trucks. On a motorcycle, you can wear a helmet, have a coat on, and you will still get hit. One of the excuses is that it costs so much to tarp all the trucks from a company. If they wouldn't overload their equipment, there wouldn't be that problem. I grew up on a farm, we never had semis, we had smaller grain trucks and we covered our loads I have been in the sugar beet area and if they covered their loads they wouldn't lose so much of their product. I like this bill and am hoping the committee will give it a pass. Thank you.

Chairman Laffen: Mr. Herrmann, I live in Grand Forks and I calculated what a semi load of sugar beets would be worth because I know I could drive around and pick up at least one semi full, but to do so just wouldn't be worth the effort to try it.

The first question, Senator Bekkedahl, you could clarify for us. I don't believe the amendment changes anything in the bill except where it is at...just changes the location. Right.

Senator Bekkedahl: Yes, that's correct and the other substantial change with this amendment is that if you have the equipment on your rig and you are loaded, you use that equipment.

Chairman Laffen: So the amendment says, only if you have the equipment, you need to use it.

Senator Bekkedahl: Exactly.

Chairman Laffen: So you don't think this will cause people to take it off their equipment?

Senator Bekkedahl: Well I don't know about that. I have never put it on there or taken it off.

Chairman Laffen: Questions for Mr. Herrmann? None. Thank you for coming. Any other testimony in favor of SB 2341? None. Opposition?

(22:52) Russ Hanson, of the Associated General Contractors of North Dakota: See Attachment #2. Also an inventory price sheet included that may not be needed now in this testimony. **See Attachment #2 page 4.** Asphalt doesn't need to have a tarp, as it doesn't go anywhere, it doesn't move. We would need to have a discussion about this. Talking about exemptions, if you're going to implement a policy then do it uniformly so everyone complies equally

Chairman Laffen: Can I interrupt you here?

Russ Hanson: Sure.

Chairman Laffen: You mean the farm exemptions?

Russ Hanson: Yes, and any subdivisions. The question was asked if this was implemented would people take the tarps off? Maybe. You always have those people. I do have an e-mail from Sgt. Michael W. Roark from Motor Carrier Division that you can read. **See Attachment #2 page 3.** (26:43). The fee is \$20.00 so you need to take a look at that fee and make it hurt if they violate the law and put the penalty there. We would offer that as a possible solution for the committee.

Chairman Laffen: Could you explain the current law a bit that talks about shifting loads and \$20.00-dollar fee? Is it different or how does that work?

Russ Hanson: No vehicle shall be driven on a highway unless it is so constructed or loaded to prevent its' contents from dropping, sifting, leaking, or otherwise escaping there from.

Chairman Laffen: So one could argue that the regulation is already there.

Russ Hanson: Yes, we agree but the penalty is pretty minor so we think people would pay attention to it if it hurt the pocketbook more.

Senator Nelson: But you are ok with the mud flaps?

Russ Hanson: We are.

Chairman Laffen: I like the language that is already in statute. I do a lot of traveling and run into trouble with empty trucks and the current law seems like it does catch that.

Russ Hanson: Yes, it does.

Senator Clemens: We currently don't have a requirement for mud flaps, if that's correct, but DOT does. To get your annual vehicle certification, mud flaps are required. Maybe it is going to pertain to a commercial vehicle coming under DOT. Getting back to the farm exemption, they wouldn't need mud flaps then?

Russ Hanson: I don't think so but DOT folks could answer that better for you.

Chairman Laffen: Any other questions for Russ? None. Thank you

Russ Hanson: Thank you and we are willing to chime in as best we can.

Chairman Laffen: Any further opposition for SB 2341?

(30:28) Rob Rebel, Vice President from Knife River Corporation: Senator Bekkedahl, I do appreciate the underlying intent but the way the bill is written might have some unintended consequences and I would like to talk about them. We tarp our loads. Every truck out there has a tarp. The industry doesn't all roll that way or feel that we should, so it is an interesting position for me personally. An example, two trucks following each other hauling pea gravel in a 40 mph head wind and some debris shooting out the back end of both trucks, would the truck without the tarp be responsible or the one with a tarp?

Chairman Laffen: Only one of those would get fined in the proposed law.

Rob Rebel: Correct. So the bill is trying to address common sense which is very difficult to make a law around. If you got it, you should use it. If you don't have it, you get a free pass. We really need to think through this as a consequence. I like where you are going with this. The second situation is when you list all the things that need to have a tarp, there are some listed that absolutely make no sense. One thing is asphalt, 6% hot sticky oil, pretty much can't blow out of a truck. Another example listed the way the bill is proposed, is rock. Larger rock will not blow out of the truck. The third thing is the \$20.00 fine. I am definitely in favor of making sure your load is secured and using the tarp when necessary. We owe it to the citizens to protect them from our loads and keep them safe. \$20.00 is not a deterrent, give it some teeth (\$200. or \$500.) so it catches their attention. That's a good way to get to the bottom of the intent.

Chairman Laffen: Speaking of things listed, I was passing a car hauler and it had a vehicle that had been in an accident on the upper level. As I pulled up along-side of it the mirrors were swinging and one blew off and another piece of the trim flew off and that is not listed here. But it sounds like in the current law it would catch that as it is leaking debris.

Rob Rebel: Yes. Blocks is another thing, and I have had them fall off right in front of me, but that would also be covered also under leaking debris. The loads have to be secured.

Chairman Laffen: Questions? None. Thank you.

Senator Bekkedahl: The industry people and members in Motor Carrier Association are very good at doing what they do. What we see in our area is that we have independent haulers coming from other states and seeking employment here and the difference is, they are paid by the load and not by the hour, and when that happens you see the tendency for them to tell the loader to over load them. That's where we are seeing the statistics coming from by being caught on the highways.

Chairman Laffen: Were you aware of the current statute that says no leakage or any of that?

Senator Bekkedahl: Yes.

Chairman Laffen: You don't think that covers this part of the bill?

Senator Bekkedahl: The difficulty is catching the acts occurring. We get a lot of reports but we have to catch them.

Chairman Laffen: So just by seeing a vehicle without a tarp will heighten awareness with the Highway Patrol.

Senator Bekkedahl: Exactly. It will give them another tool.

Chairman Laffen: Questions? Further testimony in opposition.

(36:54) Arik Spencer, Motor Carriers Association: See Attachment #3. We do believe there should be equal application of the law regardless of what type of commodity you are hauling, whether you are an Ag hauler or commercial or even a state government. We have no issue with the mud flaps or increasing the fines.

Senator Casper: Where are you at with raising the fine?

Arik Spencer: Good question. It sure needs to be higher than \$20.00. It needs to be high enough to make you think twice if you get pulled over. A lot of the times it is not just the tarp on the load, it is the securing of the load.

Senator Nelson: In your testimony it says a tarp costs \$3000.00. If that were the fine, do you think they would tarp?

Arik Spencer: Yes, I imagine they would.

Chairman Laffen: Questions? None. Thank you. Any more opposition to SB 2341? Neutral?

(40:48) Captain Eldon Mehrer, Motor Carrier Division Commander for the North Dakota Highway Patrol: See Attachment #4. The load has to be escaping to be in violation of the law. This bill is trying to address that issue. Amendments are offered because previous language allowed exemption for Agriculture products, that was taken out of the entire section, regarding load securement.

Chairman Laffen: Existing statute says there has to be a problem before you can do anything about it.

Captain Eldon Mehrer: Yes, that is correct.

Chairman Laffen: So in that case you are suggesting it will be a good thing if we can make it work. This new statute doesn't replace the current one does it? You would still have both in your toolbox, correct?

Captain Eldon Mehrer: Yes.

Chairman Laffen: There are some issues, how would you deal with the empty truck?

Captain Eldon Mehrer: The original is for load securement, so if it is empty but some residual product is left in there that would still need to be secured. If it has a tarp and hauling those specific products in the language proposed, it would need a tarp. If it is empty it would have to have officer discretion, there.

Chairman Laffen: Ok. What is your opinion on the equal to haul? Is there a problem with farm equipment, is it a problem with private sector who aren't commercial, government? Should everybody be under this law?

Captain Eldon Mehrer: I would offer it this way; The complaints we get run the gambit, it has been agriculture products, grain, hunk of plywood coming off, a piece of garbage flying off, it is sand, rock, gravel. If you look at the majority of the complaints we get, it is a lot of the product that is described in the proposed language.

Chairman Laffen: Lastly what about the \$20.00 fine. It is not much of a deterrent as we are hearing from you guys. Our \$5.00 tickets aren't doing anything.

Captain Eldon Mahrer: If there is a law there should be a good enough deterrent to make you follow that law. I offer some clarification, if the vehicle is operating in interstate commerce, it needs to fall under the Federal Motor Carrier regulations. The actual fine for a violation under the federal statute would be \$50.00. If it is stated under the state statute it is \$20.00.

Chairman Laffen: You can actually issue those \$50. fines if it meets those federal rules.

Captain Eldon Mehrer: Yes.

Chairman Laffen: Any questions for Captain Mehrer?

Senator Clemens: Nothing against the tarps but I think the over loading is an issue, especially hauling the aggregates like sand and gravel. It piles up on the side of the trucks and bounces off on the way back and can be a hazard.

Captain Eldon Mehrer: Yes, if it is an empty truck and there is still debris falling off, there is still the existing language that will address that. Not required to have a tarp but required to have it secured in some manner. The driver may have to take the time to sweep it off to secure it even though it is empty.

Chairman Laffen: Yes, the empty trucks spray the finer stuff and on a motorcycle and like Mr. Herrman stated you feel all of that.

Captain Eldon Mehrer: Yes, we have had some instances reported to us about that.

Chairman Laffen: Questions? None.

Captain Eldon Mehrer: If I could offer just one other clarification when it comes to paying attention to the definition of the commercial motor vehicle; those definitions are the vehicles that this law would apply to. There are already existing definitions in century code and federal motor carrier regulation that would determine what type of vehicle and when they would have to have either the tarp or mud flap applied to that particular vehicle.

Chairman Laffen: Further neutral testimony on SB 2341. **Closed the hearing on SB 2341.**

2017 SENATE STANDING COMMITTEE MINUTES

Transportation Committee Lewis and Clark Room, State Capitol

SB 2341
2/10/2017
28208

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature *Mary Munder*

Explanation or reason for introduction of bill/resolution:

Relating to requiring mud flaps on certain vehicles; relating to moving violations and preventing sifting or leaking loads; and to provide a penalty.

Chairman Laffen opened the hearing of SB 2341. What I am hearing from the few people that have commented on this, is they are not too crazy about how tarps could work. The most compelling piece of testimony we heard was about 2 loaded trucks from same company driving down the road and one had a tarp on not closed and the other didn't have a tarp on. The one with the tarp not being used is the one that will get fined. Seems odd. We do have laws regarding tarps if they are spilling. Highway Patrol does have some control. One possibility for this bill is to amend it down to a mud flap bill. Discussion?

Senator Casper: I don't plan on supporting the tarps. I would probably support the mud flaps if we amended it but I would not bring in the amendment as I would vote no on the whole thing.

Chairman Laffen: Is anyone interested in amending it down to just mud flaps?

Senator Nelson: What about the oil fields?

Chairman Laffen: Yes, I think it actually is a bit of a problem out west. I think the uncovered truck is a bigger issue than mud flaps as most trucks have them. I think the bigger issue is trucks that have the tarps but don't use them. Maybe the bill would help some?

Senator Nelson: Section 3 says they have to have them but there is no penalty if they don't.

Chairman Laffen: I think that was a problem in the bill that there are no penalties.

Senator Clemens: In my opinion the mud flap thing is more important than the tarps. U.S. DOT requires mud flaps and they even have specifications. I would be in favor of supporting the mud flaps to follow DOT regulations within our state.

Chairman Laffen: Senator Nelson, we would need a penalty of some kind.

Senator Nelson: I don't know what it would be. Maybe Arik knows.

Chairman Laffen: Committee, I will talk to the bill sponsor, and see if he wants to address a mud flaps only bill and what penalty he might suggest.

Arik Spencer, Motor Carrier's Association: We don't have any issue with the mud flaps. Rather than detailing the weight and the length, I think if we just set an adequate size to prevent the debris from blowing back I think that would suffice. It is really a maintenance thing. In terms of the fine, I would have to defer to the Highway Patrol to see what the proper fine would be.

Senator Casper: My thought is if we are going to have a mud flap rule, there is a national language and if it was similar that would make sense, if you think that would work.

Arik Spencer: I would have to look up that language. Typically, what we do is look up the federal code for that area they are in. I can visit with Captain Mehrer and we can get that section of the federal code and the language to you if you like.

Chairman Laffen: Ok. We are going to let Senator Casper, Senator Bekkedahl, Captain Mehrer, and Arik figure out something on the mud flaps.

Senator Rust: In the area we have farmers who have grain carts and they would not be covered?

Chairman Laffen: Senator Rust, I would read that as correct, it has to have a motor, although the trailer doesn't have a motor.

Arik Spencer: How about if I visit with Captain Mehrer, and get some language back that addresses the mud flaps in the whole of North Dakota?

Senator Rust: When a truck gets loaded and debris is spilled on the sides of the truck a tarp doesn't help. If you have a tarp on, all the problems are gone? I don't think that that is true.

Chairman Laffen: There is a fine for the spilling. That rule is already in place.

Senator Rust: Another part of this bill, when a person comes to me and says 'Why don't you have a tarp rule? I was driving down the highway, a truck drove by me and something hit me and broke my windshield.' So what does that driver do? Call the police?

Chairman Laffen: It is almost impossible to enforce, that's why we are struggling with this. Riding motorcycle, I have way more trouble with empty trucks. I think we are all convinced that we are going to take tarps out of this.

Senator Clemens: I had an experience with one of my trucks, it took out the back window of a vehicle and in talking with the insurance the question asked was did the material come off the top of your truck or off the road. It was hauling hot asphalt so I doubt it came out of the box. Fine. If it is off the road it is like an act of God, it's no responsibility if something gets picked up off the roads. When Senator Casper goes to work on the amendment, I would

prefer there would be no exceptions, commercial or not, if it is a vehicle suitable for mud flaps, then they should be on there.

Chairman Laffen: I think Arik will find out what the other states are doing, pieces of farm equipment, do they require them? We will have Arik work with the DOT and get back to us. Thank you.

Senator Nelson: Does farm equipment have different rules as soon as it comes onto the highway? Semis come out of the fields and onto the highways.

Chairman Laffen: They will be covered under this rule. The bigger question is the big grain hopper that is pulled behind the truck or an auger.

Arik Spencer: I believe those type of machinery is covered under implements of husbandry, a total different section of law.

Chairman Laffen: Closed discussion on SB 2341

2017 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

SB 2341
2/16/2017
28436

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Mary Munder

Explanation or reason for introduction of bill/resolution:

Relating to requiring mud flaps on certain vehicles; relating to moving violations and preventing sifting or leaking loads; and to provide a penalty

Minutes:

||

Chairman Laffen: Called hearing on SB 2341. We have had a lot of discussion on this and most people are in agreement that the tarp portion is problematic and we have some tarp language. The only part in this is debating in whether we need mud flaps. Erik could you fill us in on your e-mail on this.

Erik: No federal requirement on mud flaps. Several states do have them. In visiting with dealers on tractors and trailers they all come equipped with mud flaps so our members don't feel that compliance should be an issue. A mud flap rule would be a maintenance issue. The way the e-mail is written it would require mud flaps for truck, truck tractor, trailer, semi-trailer, and pull trailer. Those are all defined in century code and that would include farm use of that equipment, it would exclude implements of husbandry. Questions?

Chairman Laffen: So the mud flap bill would only affect local companies inside the state that aren't going across state lines.

Erik: Yes.

Senator Campbell: I am on the verge of suggesting we do not pass this whole bill, we have talked the tarp thing to death and I think we are all on the same page there. Is there really a problem with the mud flaps? Do we need to do something about the mud flaps or would you rather see us do not pass the whole thing?

Erik: The language I e-mailed to the committee yesterday, we'd be neutral and if the bill went away we wouldn't be sorry. It's not so much an equipment requirement on the front end it is a maintenance requirement.

-

Erik: I do not know but I would say it depends on the environment it operates in.

Senator Campbell: We run 100's of trucks and they never wear out. You get backed up against something and the holes might get ripped. They are hard plastic or rubber and they never wear out, usually get pulled off or something.

Senator Nelson: How much are they?

Senator Campbell: Forty or fifty bucks in a truck stop. We keep them stocked in the shop.

Chairman Laffen: I am not seeing a compelling need out there. I am not sure that this is a solution looking for a problem.

Senator Campbell: I move a Do Not Pass for SB2341.

Senator Casper: Seconded.

Chairman Laffen: Discussion?

Senator Nelson: My only concern here is to say hey we don't need mud flaps and we don't need tarps. I am hoping the dealers will still say it is a good idea, insurance wise and safety wise.

Chairman Laffen: I am not hearing anybody that doesn't have all of this equipment, I think they all realize it is necessary equipment and I think if there is any message we are just saying we don't need the regulation of mud flaps because it really isn't a issue. Everybody is using them. Any other discussion?

Roll Call taken: Yeas-6, Nays-0, Absent-0.

Motion carried.

Senator Nelson will carry the bill.

Date: 2/16/17
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. "Enter Bill/Resolution No." SB 341

Senate Transportation Committee

☐ Subcommittee

Amendment LC# or Description: _____

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

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Campbell Seconded By Casper

Senators	Yes	No	Senators	Yes	No
Chairman Lonnie J. Laffen	✓		Senator Carolyn Nelson	✓	
Senator Tom Campbell	✓				
Senator David Rust	✓				
Senator David Clemens	✓				
Vice Chairman Jonathan Casper	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Nelson

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

REPORT OF STANDING COMMITTEE

SB 2341: Transportation Committee (Sen. Laffen, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2341 was placed on the Eleventh order on the calendar.

2017 HOUSE TRANSPORTATION

SB 2341

2017 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

Engrossed SB 2341
3/3/2017
#28677

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to requiring mud flaps on certain vehicles; relating to moving violations; and to provide a penalty.

Minutes:

Attachments #1-2

Chairman Ruby opened the hearing on SB 2341.

Senator Bekkedahl, District 1, spoke to introduce and support SB 2341. Written testimony was provided. See attachment #1, pages 1-3. (3:28)

Chairman Ruby: The last line says, "Does not apply to farm implements." Does that include grain trucks?

Senator Bekkedahl: It is my understanding that we attempt to exempt all farm vehicles.

Representative Nelson: Are you really referring to just the very rear wheels, like on a multiple hook-up? Are you referring just to mud flaps behind the rear wheels because some people put them in front as well.

Senator Bekkedahl: The intent was just for the rear wheels on whatever assembly that you have.

Vice Chairman Rick C. Becker: Can you explain why the bill might have been tailored down to a narrower field and who has been exempted?

Senator Bekkedahl: There is in statute a definition of commercial vehicles. We originally took the language of the 10,000 # from other states that have this rule. The HP preferred not to have the 10,000 # in there because there is some language that would conflict with that in statute. The Highway Patrol could answer your other question better than I can.

There was no further support for SB 2341.

There was no opposition to SB 2341.

Captain Eldon Mehre, Motor Carrier Division Commander for the Highway Patrol of North Dakota, spoke in a neutral capacity on SB 2341.

Capt. Mehre: This is the definition of a commercial motor vehicle as already stated in North Dakota Century Code is under 39-06.2-02:

6. "Commercial Motor Vehicle means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property:

a. If the gross combination weight rating or combination weight is twenty-six thousand one pounds or more, whichever is greater, provided the towed unit has a gross vehicle weight rating or gross weight of more than ten thousand pounds, whichever is greater;

b. If the vehicle has a gross vehicle weight rating or gross vehicle weight of more than twenty-six thousand pounds, whichever is greater;

c. If the vehicle is designed to transport sixteen or more passengers, including the driver; or

d. If the vehicle is transporting a placardable amount of hazardous materials.

If it meets any of those definitions, then it would be required to have mud flaps.

Chairman Ruby: Would the tractor of a semi need mud flaps as well?

Captain Eldon Mehre: If the trailer is attached to the tractor, then the tractor itself would not need them. If it is driving alone, then it would.

Representative Jones: Would a tractor that is under twenty-six thousand pounds and unattached, be required to have mud flaps?

Captain Eldon Mehre: No, it would not, according to the definition.

Representative Nelson: Are the floaters and large sprayers, things like that, are those covered under farm implements, or are they a commercial vehicle?

Captain Eldon Mehre: Looking at the definition, it would have to be designed to transport property or passengers. One would have to look back at the definition of farm implements in Century Code to see if it meets that definition to see if it were required to have the mudflaps.

Representative Schobinger: Does this only apply to North Dakota residents or out-of-state travelers as well?

Captain Eldon Mehre: It would apply to any motor vehicle traveling in North Dakota.

Arik Spencer, North Dakota Motor Carriers Association, spoke in a neutral capacity on SB 2341.

Arik Spencer: When I looked at this and reached out to my members, everyone already thought it was a federal law because the trucks and trailers are shipped with mud flaps. They are frequently inspected to see if they have mud flaps. Montana and Minnesota already have a mud flap law. The dealers that I spoke with thought there would be no problem with complying.

I do have an observation about the area that says "farm implements". In Century Code there is a definition for "implements of husbandry", which means: every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations; or for lifting or carrying an implement of husbandry; and in either case not subject to registration if used on a highway. I would have to look to see if "farm implement" is a term in Century Code, but "implements of husbandry" would seem to provide better specificity in terms of what vehicles are not required to use a mud flap.

I would also observe that in the bill on Page 1, Line 23, it only references the width of the mud flap. Our preference would be language that states, "length and width adequate to prevent debris from flying on following vehicles". We would not like to specify an exact number of inches off the ground. It would be difficult when out on the highway.

There are some of our members that have specialty constructed truck boxes on specialty equipment. That piece of body construction can effectively serve as a mud flap. In addition, in the future there may be aerodynamic devices that come to market that really serve the same purpose or function as a mud flap.

Chairman Ruby: In your example about "implements of husbandry", wouldn't that take in grain trucks?

Arik Spencer: It is my understanding that an implement of husbandry is a special piece of equipment that cannot be registered on the road. Then a grain truck would have to comply with the requirement. It is not only commercial carriers that throw debris on following cars.

Representative Paur: Reference to "implements of husbandry" is under definitions at the beginning of 39-01. There seem to be confusion about the terms used.

Arik Spencer: That is why I think that it is important that we use the terms that are already defined in Century Code, and not others that could be subject to broad interpretation.

There was no further neutral testimony on SB 2341.

The hearing was closed on SB 2341.

Chairman Ruby: This bill passed the Senate. It did have the tarp portion in it on the Senate side, which was amended out. The mud flap portion passed. I would like to see more defining language on who this applies to. We might need to exempt some of the construction equipment that we see.

Representative Paur: Is there a reason that we really have to pass it? Maybe we can fix it like you say, with a recommendation of Do Not Pass.

Representative Anderson: I would agree with that. I am not in favor of the bill at all.

Chairman Ruby: We can send it out with a recommendation. There are some real issues with it. It might need a lot of tightening up.

Representative Jones: I called some constituents. They were all surprised that a law didn't already exist for mud flaps. I don't think that law enforcement felt there is a problem with this.

Representative Nelson: Whatever recommendation come out of committee, I would be more comfortable with "implements of husbandry" being on the bill rather than "farm implements".

Representative Nelson moved an amendment to change "farm implements" to "implements of husbandry".

Representative Grueneich seconded the motion.

A voice vote was taken. All aye. Motion carried.

Representative Paur moved an amendment brought forward by Arik Spencer. See attachment #2.

Representative Owens seconded the motion.

A voice vote was taken. All aye. Motion carried.

Representative Sukut moved a DO PASS as amended on SB 2341.

Representative Grueneich seconded the motion.

A roll call vote was taken: Aye 7 Nay 6 Absent 1

The motion carried.

Representative Sukut will carry SB 2341.

2017 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

SB 2341
3/3/2017
#28694

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature

Janet Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to requiring mud flaps on certain vehicles; relating to moving violations; and to provide a penalty.

Minutes:

Chairman Ruby brought SB 2341 back before the committee.

Representative Jones moved to reconsider the action on SB 2341.

Representative Westlind seconded the motion.

A voice vote was taken on SB 2341.

Motion Carried.

Representative Jones: I decided that since everything seems to be working without this law. I think passing this bill would be adding regulations that we don't need.

Representative Weisz moved a DO NOT PASS as amended on SB 2341.

Representative Owens seconded the motion.

A roll call vote was taken: Aye 9 Nay 5 Absent 0

The motion carried.

Representative Jones will carry SB 2341.

3/3/17 DP

17.0984.02002
Title.03000

Adopted by the Transportation Committee

March 3, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2341

Page 1, line 23, remove "wide enough to"

Page 1, line 24, replace "cover the full tread width of the tire being protected." with "of sufficient width and length"

Page 2, line 3, remove "farm"

Page 2, line 3, after "implements" insert "of husbandry"

Renumber accordingly

Date: 3-3-17
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2241

House Transportation Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Nelson Seconded By Greineich

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 Westlund					

Vote all aye Motion Carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

• change "farm implements"
to "implements of husbandry"

Date: 3-3-17
Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2341

House Transportation Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Paur Seconded By Owens

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 Westlund					

Notice Vote
All are Carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Arik-Spencer: Attachment # 2
Page 1, line 23, remove "wide enough to"
Page 1, line 24, "cover the fuel..."
Page 2, line 3, remove "farm"
Page 2, line 3, after "implements" insert "husbandry"

Date: 3-3-17
Roll Call Vote #: 3

**2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2341**

House Transportation Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sukut Seconded By Grueneich

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		✓			

Total (Yes) 7 No 6

Absent 1

Floor Assignment Sukut

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

Date: 3-3-17
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2341

House Transportation Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☒ Reconsider ☐ _____

Motion Made By Jones Seconded By Westlind

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					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 3-3-17
Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. SB2341

11:33am

House Transportation

Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Weisz Seconded By Owens

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	✓				

Total (Yes) 9 No 5

Absent 0

Floor Assignment Jones

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

REPORT OF STANDING COMMITTEE

SB 2341, as engrossed: Transportation Committee (Rep. D. Ruby, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO NOT PASS (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2341 was placed on the Sixth order on the calendar.

Page 1, line 23, remove "wide enough to"

Page 1, line 24, replace "cover the full tread width of the tire being protected," with "of
sufficient width and length"

Page 2, line 3, remove "farm"

Page 2, line 3, after "implements" insert "of husbandry"

Renumber accordingly

2017 TESTIMONY

SB 2341

SB 2341 2-3-17

Senate Transportation Committee
Honorable Senator Lonnie Laffen, Chairman
Senate Bill 2341 Testimony
Brad Bekkedahl, Senator
District 1, Williston, ND

Senate bill 2341 is a bill addressing multiple constituent concerns relative to highway safety and damage issues. It deals with two issues statewide, but particularly evident in the Bakken development region.

The volumes and pace of infrastructure development has placed great numbers of commercial vehicles on our highways and county roads. With that has also come load spillage and picked up rocks that damage other vehicles and windshields. Simply put, the request is "can we do something to reduce the damage that we pay for as innocent victims in these cases?"

In my attempts to draft the bill, I had a phone conversation with a highway patrol employee about the applicable statutes. Legislative Council drafted the original bill you have before you that was submitted. After contacts from affected agencies and business interests, I am now on my fourth amendment to the bill, and this has all happened before the hearing. As you can see, this is a work in progress to get the best bill it can be.

The bill I am trying to have for your consideration would do two things:

- 1) Require commercial load haulers with tarps attached to the load equipment use them when carrying a product load, and
- 2) Require mud flaps on commercial haul loads to reduce flying rocks from tires to following vehicles.

I appreciate the Committee's patience and understanding and request time to continue amendment drafting to address concerns from testimony today and Committee input. I will stand now for questions Mr. Chairman.

February 2, 2017

SB 2341
Attachment #1
2/3/17 pg 2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2341

- Page 1, line 1, replace "a new section" with "two new sections"
- Page 1, line 2, after the first "to" insert "requiring a tarpaulin and"
- Page 1, line 3, replace "sections" with "section"
- Page 1, line 3, remove "and 39-21-44.1"
- Page 1, line 4, remove "and preventing sifting or leaking loads"
- Page 1, line 13, replace "39-21-44.1" with "section 2 of this Act"
- Page 1, remove lines 19 through 24
- Page 2, replace lines 1 through 21 with:

"**SECTION 2.** A new section to chapter 39-21 of the North Dakota Century Code is created and enacted as follows:

Tarpaulin required.

1. An individual may not operate a commercial motor vehicle equipped with a close-fitting tarpaulin or other appropriate cover, or a device designed to reasonably ensure the cargo will not drop, blow, leak, or otherwise escape, on a public road or highway while hauling soil, sand, gravel, rocks, rock chips, gravel, silica, trash, or garbage unless the load is covered and secured.
2. This section does not apply to:
 - a. Sand being dropped for the purpose of securing traction, or water or other substance being sprinkled on a roadway in cleaning or maintaining the roadway;
 - b. The operation of highway maintenance vehicles engaged in removing snow or ice from the roadway; or
 - c. A vehicle owned or operated by a state or a political subdivision.

- Page 2, line 25, remove "registered for over ten thousand pounds [4535.92]"
- Page 2, line 26, remove "kilograms]"
- Page 3, line 1, remove "or to a vehicle not required to be"
- Page 3, line 2, remove "registered"
- Renumber accordingly

Sixty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2341

SB 2341

Attachment #1 pg 3

2.3.17

Introduced by

Senator Bekkedahl

1 A BILL for an Act to create and enact ~~a new section~~ two new sections to chapter 39-21 of the
2 North Dakota Century Code, relating to requiring a tarpaulin and requiring mud flaps on certain
3 vehicles; to amend and reenact ~~sections~~ section 39-06.1-09 ~~and 39-21-44.1~~ of the North Dakota
4 Century Code, relating to moving violations ~~and preventing sifting or leaking loads~~; and to
5 provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **39-06.1-09. Moving violation defined.**

10 For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a
11 violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01,
12 39-06-14, 39-06-14.1, 39-06-16, 39-08-20, 39-08-23, 39-08-24, 39-09-01, 39-09-01.1,
13 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02, section 39-12-04, 39-12-05,
14 39-12-06, 39-12-09, ~~39-21-44.1~~ section 2 of this Act, section 3 of this Act, 39-21-45.1, 39-24-02,
15 or 39-24-09, except subdivisions b and c of subsection 5 of section 39-24-09, or equivalent
16 ordinances; or a violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent
17 ordinances, except subsection 5 of section 39-10-26, section 39-21-44, and subsections 2 and
18 3 of section 39-21-46, and those sections within those chapters which are specifically listed in
19 subsection 1 of section 39-06.1-08.

20 ~~—SECTION 2. AMENDMENT. Section 39-21-44.1 of the North Dakota Century Code is~~
21 ~~amended and reenacted as follows:~~

Attachment #1 pg 4
2/3/17 SB 2341

~~39-21-44.1. Vehicle to be constructed to prevent sifting or leaking loads - Covers or tarpaulins required.~~

~~1. No vehicle~~An individual ~~may be driven or moved~~not operate a vehicle ~~on any highway unless it is~~the vehicle is ~~so constructed or loaded as to prevent its~~keep the ~~contents from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway. No person~~within or on the vehicle.

~~2. An individual may not operate on any highway any vehicle with any load unless the load and any covering thereon~~on the vehicle ~~is securely fastened so as to prevent said~~the covering or load ~~from becoming loose, detached, or in any manner a hazard to other users of the highway.~~

~~3. An individual may not operate a commercial motor vehicle hauling soil, sand, rocks, rock chips, gravel, silica, trash, or garbage, on a public road or highway unless the load is covered and secured with a close-fitting tarpaulin or other appropriate cover, or a device designed to reasonably ensure the cargo will not drop, blow, leak, or otherwise escape.~~

~~4. This section does not apply to:~~

~~a. Sand being dropped for the purpose of securing traction, or water or other substance being sprinkled on a roadway in cleaning or maintaining the roadway;~~

~~b. Farm vehicles carrying agricultural products locally from a harvest site, or to or from a farm;~~

~~c. The operation of highway maintenance vehicles engaged in removing snow or ice from the roadway; or~~

~~d. A vehicle owned or operated by the state or a political subdivision.~~

SECTION 2. A new section to chapter 39-21 of the North Dakota Century Code is created and enacted as follows:

Tarpaulin required.

1. An individual may not operate a commercial motor vehicle equipped with a close-fitting tarpaulin or other appropriate cover, or a device designed to reasonably ensure the cargo will not drop, blow, leak, or otherwise escape, on a public road or highway while

hauling soil, sand, gravel, rocks, rock chips, gravel, silica, trash, or garbage unless the
load is covered and secured.

2. This section does not apply to:

- a. Sand being dropped for the purpose of securing traction, or water or other
substance being sprinkled on a roadway in cleaning or maintaining the roadway;
- b. The operation of highway maintenance vehicles engaged in removing snow or
ice from the roadway; or
- c. A vehicle owned or operated by a state or a political subdivision.

SECTION 3. A new section to chapter 39-21 of the North Dakota Century Code is created
and enacted as follows:

Mud flaps required.

- 1. A commercial motor vehicle ~~registered for over ten thousand pounds [4535.92~~
~~kilograms]~~ must be equipped with mud flaps for the rear wheels when operated on a
public road or highway. The mud flaps must be wide enough to cover the full tread
width of the tire being protected, and must be constructed of a rigid material or a
flexible material of a sufficiently rigid character to provide adequate protection when
the vehicle is in motion.
- 2. This section does not apply to farm implements ~~or to a vehicle not required to be~~
~~registered.~~

Testimony SB 2341
House Transportation Committee
February 3, 2017

Mr. Chairman and members of the House Transportation committee, my name is Russ Hanson of the Associated General Contractors of North Dakota. AGC of ND is a 400 member association which has been in existence since 1951. Our membership consists of all aspects of commercial construction - highway contractors, vertical contractors, specialty contractors, subcontractors as well as material and equipment suppliers.

The AGC of ND is opposed to SB 2341, as written, which is the same position we've had on similar bills introduced the past several legislative sessions. While damage to vehicles, particularly windshields is frustrating, we don't believe a tarping mandate will solve the problem. Current law (NDCC 39-21-44.1) states "no vehicle may be driven on any highway unless it is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping therefrom". If a vehicle violates this, they can be cited.

If SB 2341 is enacted it will have a cost to business which will be passed on as an overall cost of doing business. In inquiring with some of our members, \$3,000 is a common number given as an approximation for tarp cost. Depending upon the size of the business's fleet, would determine the overall cost. One of our members indicated they'd need to cover 248 trucks which would equate to over \$740,000.

I previously stated SB 2341, as written, would be a cost to business purposefully as this bill exempts government and Agriculture from this mandate. If the Legislature believes this bill will solve a problem (again, we do not), it ought to enact the policy uniformly to anyone hauling the material stated in this bill.

2/3/17 SB 2341
Attachment #2 pg 2

I inquired with my AGC colleagues from our neighboring states regarding their respective policies regarding this issue. Their policies are the same now as I reported in 2015. Minnesota has a tarping requirement while Montana and South Dakota do not.

For these reasons, we respectfully request a Do Not Pass recommendation on SB 2341 as written. Thanks for the opportunity to testify. I will be happy to attempt to address any questions

Russ Hanson

2/3/17 Attachment # 2
SR 2341 pg. 3

From: Roark, Sgt. Michael W. <mwroark@nd.gov>
Sent: Tuesday, January 17, 2017 5:24 PM
To: Russ Hanson
Subject: NDCC 39-21-44.1

Mr. Hanson,

It was nice visiting with you. To answer your question of identifying the penalty of NDCC 39-21-44.1 (shifting leaking load), the dollar amount would fall under NDCC 39-21-46 (scope and effect of equipment requirements - penalty).

Under NDCC 39-21-46 subsection 3, a person who fails or refuses to comply with these rules must be assessed a fee in the amount set forth in section 39-06.1-06 for each violation.

Under NDCC 39-06.1-6 subsection 2, it states a twenty dollar fee will be assessed for a moving violation as defined in section 39-06.1-09.

NDCC 39-06.1-09 defines a moving violation and includes NDCC section 39-21-44.

NDCC 39-21-44.1, a shifting and/or leaking load is assessed a \$20 dollar citation. It is also a moving violation with no points assessed to the driver's license.

I hope this information has been helpful. Please let me know if I can be of any further assistance.

Thank you.

Sgt. Michael W. Roark
Motor Carrier Division
North Dakota Highway Patrol
(w) 701.328.5128
(c) 701.500.0343

2/3/17 SB 2341
Attachment #2 pg. 4

From: Molly Barnes <mbarnes@nicnd.com>
Date: January 13, 2017 at 8:40:02 AM CST **To:**
'Russ Hanson' <RHanson@agcnd.org>,
<james.thorson@stratacorporation.com>
Cc: <arik@ndmca.org>
Subject: RE: Emailing - 17-0323-01000.pdf

Russ,

Here is where I am at:

We have 248 trucks with boxes and/or trailers

248 trucks/trailers @ \$3000 per tarp is \$744,000.00 to get and install the tarp.

If we figure 4 minutes to get out of the truck, untarp and then 4 minutes to re-tarp after loading (this might be light). We have 1984 minutes per load for all of our trucks.

1984 minutes divided by 60 minutes per hour time the davis bacon tandem wage of \$38.39 = \$1269.43 per round for our trucks to tarp and untarp.

If we figure an average of 10 loads per day that is \$12,694.30 per day for our trucks to tarp and untarp. The DOT can expect that on all their jobs if this goes through.

This does not include the incalculable potential for worker's comp claims. Not only do we open up for slips, trips, and falls getting in and out of the truck, but also the potential for sandblasting of the employee if it is windy. Sand in the eyes, etc.

We also need to look at maintenance. I am guessing you will have \$200 per year in maintenance, whether it is fixing a tear or just general upkeep. \$200 @ 248 is \$49,600 in maintenance.

Also, you know will have to replace a minimum of 5% of the fleet per year for various reasons. In our fleet this is 12.4 trucks so, call it 13. 13 @ \$3000 is an additional \$39,000 in replacements per year.

I hope that helps!

Molly B

**TESTIMONY SB 2341
SENATE TRANSPORTATION COMMITTEE
FEBRUARY 3, 2017**

Mr. Chairman and members of the Senate Transportation Committee my name is Arik Spencer, executive vice president of the North Dakota Motor Carriers Association. NDMCA represents the trucking and transportation industry in North Dakota and has been in existence since 1937. I am here this morning to testify in opposition of Senate Bill 2341 as written.

We have a number of concerns with SB 2341. First, this bill will do little to prevent damage to vehicles from rocks and gravel as vehicles moving from gravel roads onto paved roads will pull gravel, rocks and sand on to paved roads at intersections. When gravel falls from a vehicle, it often is a result of loading, when gravel or other material falls on surfaces outside the vehicles box such as the bumper. Gravel can also come loose from the belly dump or from a trucks tires.

Second, SB 2341 as written also mandates mud flaps and details a number of specifications but fails to address length. Again, doing little to prevent damage to vehicles.

Our third concern is cost to industry. During the 2013 Legislative Session HB 1144 was introduced, which was similar to SB 2341 with the exception that it would have required government vehicles cover their loads in addition privately owned vehicles. The North Dakota Department of Transportation expressed concern over provision as their cost to comply would have been over \$1.3 million. Compliance with this new regulation will cost the private sector many times that amount as each commercial truck tarp cost approximately \$3,000.

Our fourth concern is that SB 2341 exempts farm vehicles from compliance with North Dakota's load securement laws, which may create additional road hazards. NDCC 39-21-44.1 already requires loads to be securely fastened to prevent load from becoming loose, detached, or in any manner a hazard to other users of the highway, which farm vehicles as well as any other vehicles are subject to.

Additionally, because SB 2341 exempts farm vehicles from compliance with North Dakota's load securement laws, North Dakota may no longer be compliant with Federal Motor Carrier Safety Administration (FMCSA) regulations, putting at risk millions of dollars in federal motor carrier enforcement funds the ND Highway Patrol rely on to fund their motor carrier division.

SB 2341 ATTACHMENT # 3 pg 2
2/3/17

This would have the added impact of ensuring ND motor carriers are frequently audited by FMCSA and targeted for inspections when they leave the state because our inspection program will not meet federal requirements.

While this bill is well intentioned, because of the costs to North Dakota companies, the state of ND and ND based motor carriers we ask that you give SB 2341 as written a DO NOT PASS recommendation.

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

Senate Bill 2341
Senate Transportation Committee
Senator Lonnie Laffen, Chairman
February 3, 2017

Mr. Chairman and members of the Transportation Committee, my name is Captain Eldon Mehrer, Motor Carrier Division commander for the North Dakota Highway Patrol. I will provide neutral testimony for Senate Bill 2341.

Amendments are offered because previous language allowed an exemption for agricultural products to the entire section of 39-21-44.1 regarding load securement. Load securement includes straps, chains or any means used to safely secure cargo. The previous language would have allowed a farm vehicle to haul a combine not secured or chained.

The previous language also would have made North Dakota Century Code incompatible with federal motor carrier regulations requiring proper load securement. Farm vehicles are not exempt from these requirements (393.100 of the Federal Motor Carrier Regulations, part 350).

A state is allowed to enact a law stricter than the federal regulation and remain compatible if there is an additional safety benefit.

An incompatible law would make the state of North Dakota and the North Dakota Highway Patrol non-compliant with the Motor Carrier Safety Assistance program (MCSAP). MCSAP provides more than \$3 million dollars to the highway patrol, which funds 21 full-time employees (16 sworn, 5 civilian).

Budget shortfalls caused the loss of 16 sworn officers. Losing federal funding for an additional 16 sworn and 5 civilian positions would adversely affect traffic safety and the citizens we serve.

The proposed section to N.D.C.C. 39-21 addresses tarpaulin on specified cargo. There is no need to add an exemption for agricultural commodities, as the language is specific to the type of cargo (sand, rock, gravel) requiring a tarp. The tarp requirement would keep the state compatible with federal regulations.

The proposed section regarding mud flaps provides a clear definition of which vehicles will be required to have mud flaps as stated in N.D.C.C. and federal regulations.

This concludes my testimony. I am happy to answer any questions.

SB 2341
3-3-17

March 3, 2017

#1
Page 1

House Transportation Committee

Honorable Representative Dan Ruby, Chairman

Senate Bill 2341

Testimony by Senator Brad Bekkedahl

Chairman Ruby and Committee Members,

Senate Bill 2341 started as a bill to address vehicle damage concerns from constituents. As you know, western ND has seen massive movement of raw materials to build infrastructure and well pads with the Bakken development. With the large number of vehicles delivering millions of tons of materials, windshield damage on our major highways has become an all too familiar occurrence.

This bill has involved industry consultation and regulatory input from the ND Highway Patrol in its development. The original bill also had a load cover component for commercial equipment hauling gravel, rock, dirt, and similar materials. It would have required equipment that has automatic load covers, to be required to use them when in transport with a load. That section of the bill was removed with a floor amendment and became the mud flaps bill you have today. The flaps requirement was not opposed by any industry involved in the hearings and passed the Senate floor. After its passage, continued industry and regulatory discussion led to a simplification of the bill in the form of the hog house amendment I ask your committee to consider. It accomplishes the original purpose, and makes the bill better for all involved, while still providing some of the protective measures requested by the public.

I have also provided for committee review and information, a sheet on mud flap requirements in Federal code, as well as on the back of that sheet, the verification that North Dakota currently has no mud flap requirements for commercial motor vehicles. You will notice that the Federal Motor Carrier Safety Administration regulations do not address mud flaps, so therefore they default to a state issue. There are currently 39 states that have mud flap regulations, and 11 that do not. Our neighboring states to the east and west both have mud flap regulations.

Mr. Chairman and Committee, thank you for your attention and consideration of SB 2341 today. Please help grant some relief to our residents and traveling public with a Do Pass on the hog house amendment and the bill and let's save a few more windshields out there. I will stand now for any questions or concerns and turn the podium over for further testimony.

The Mudflap Rule

One question that seems to get asked a lot is "Where are the mudflap rules?" This is especially true after someone receives a ticket for not having one!

What do you mean, "there is no federal rule"?

Mudflaps are not addressed in the Federal Motor Carrier Safety Administration (FMCSA) safety regulations. Because the FMCSA regulations do not address them, they by default become a state issue. The bottom line is that it is left to the states to place regulations on the books to regulate the design and use of mudflaps (known in many states by their other name, splashguards), if they wish.

Most jurisdictions simply state that the vehicle must have mudflaps/splashguards on the rear of the vehicle that are adequate to keep spray and debris tossed up by the tires from hitting the windshields of following traffic.

Specific requirements

There are some states that provide specific requirements, and these are the ones that "set the standards" that interstate trucks need to follow. The most common requirements are that the mudflap/splashguard cover the full width of the tire and:

- Reach to within 8 inches of the ground (AZ, DE, MO, and TX are examples). Several states say the mudflap/splashguard must be within 10 inches of the ground.
- Extend down from the top of the tire at least the same distance as the width of the tires (MD is an example of a state that has this).
- Cover 2/5 of the vertical tire area (MS is 2/5, several states say 1/2 to 2/3).
- Be able to stop water and debris that is leaving the tire at a tangent angle of 22 degrees or more (MI, OK, and PA all use the 22 degree standard).

So what can an interstate carrier do? To comply everywhere, most carriers go with a standard of around no more than 6 inches from the ground, but definitely no more than 8 inches from the ground (depending on where the fleet operates). This keeps you out of trouble just about everywhere you need to go!

Missouri: Trucks, semi-trailers and trailers — except utility trailers — without rear fenders, attached to a commercial motor vehicle registered for more than 24,000 lbs. shall be equipped with mud flaps for the rear wheels when operated on the public highways of this state. If mud flaps are used, they shall be wide enough to cover the full tread width of the tire(s) being protected; shall be so installed that they extend from the underside of the vehicle body in a vertical plane behind the rear wheels to within 8" of the ground; and shall be constructed of a rigid material or a flexible material that is of a sufficient character to provide adequate protection when the vehicle is in motion. No provisions of this section shall apply to a motor vehicle in transit and in process of delivery equipped with temporary mud flaps, to farm implements, or to any vehicle that is not required to be registered

Montana: All trucks, truck-tractors, trailers or semi-trailers moved on the highways of Montana shall be equipped with fenders, splash aprons or flaps designed, constructed and attached to the rearmost wheels or set of wheels so as to arrest and deflect dirt, mud and water, rocks and other substances that may be picked up and thrown into the air by the rear wheels. If the vehicle is in excess of 8,000 lbs. gross vehicle weight, such fenders, splash aprons, or flaps shall extend downward to a point that is not more than 10" above the surface of the highway when the vehicle is empty.

Nebraska: Every new motor vehicle or semi-trailer purchased after Jan. 1, 1956, and operated on any highway in the state must be equipped with fenders, covers or devices, including flaps or splash aprons, unless the body of the vehicle affords adequate protection of effectively minimizing the spray or splash of water or mud to the rear of the motor vehicle or trailer.

Nevada: Mud flaps must be suspended behind the rear wheels on vehicles or combinations weighing more than 26,000 lbs.

New Hampshire: Every vehicle operated in or upon in any way — when not equipped with proper fenders to prevent the throw, spray, or splash of water, dirt, or other matter — shall be equipped with suitable fender guards or flaps that shall effectively reduce the throw, spray or splash likely to be emitted from any wheel or tire. Said flaps or guards required shall be of a type and size prescribed and approved by the director.

New Jersey: Trucks, buses, full trailers or semi-trailers of a registered gross vehicle weight more than 3 tons, must be equipped with metal protectors or substantial flexible flaps behind the rearmost wheel before operating on the highways. If there is not fender, body or other protection over the top of the wheel, some suitable protection must be provided. The flaps or other devices should substantially reduce the amount of dirt, water or other materials thrown on windshields of following vehicles. This rule applies to all vehicles entering New Jersey as well as resident vehicles.

New Mexico: No mud flap requirements for commercial motor vehicles.

New York: Splash guards and stone deflectors will be required on all vehicles unless the vehicle has been designed so that water and other road substances will not be thrown to the rear of the vehicle. The splashguards and stone deflectors must be fairly rigid, and the distance from the lower end to the ground must not exceed 1/3 of the distance from the bottom of the splash guard to the point of contact of the rear wheel. Farm vehicles, trailers and semi-trailers will be exempt from this ruling when they are registered as a farm vehicle.

North Carolina: No mud flap requirements for commercial motor vehicles.

North Dakota: No mud flap requirements for commercial motor vehicles.

Continued on next page

March 3, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2341

Page 1, line 23, remove "wide enough to"

Page 1, line 24, replace "cover the full tread width of the tire being protected," with "of sufficient width and length"

Page 2, line 3, remove "farm"

Page 2, line 3, after "implements" insert "of husbandry"

Renumber accordingly