

2019 HOUSE TRANSPORTATION

HB 1055

2019 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee Fort Totten Room, State Capitol

HB 1055
1/4/2019
#30423

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to motor vehicle body damage disclosure.

Minutes:

Attachments 1-3

(20 seconds)

Chairman Ruby opened the hearing on HB 1055.

Rep. Heinert introduced the bill. He stated that they would like to clean up the language in the bill in relation to the \$8000 or the 40% of the pre-damage retail value of the motor vehicle and the notification of the next owner. The \$8000 in law has been there since 1999. At that time, it was changed from \$5000 to \$8000. I believe the bill is being misinterpreted. Many vehicles are being given tag titles at \$8000, even though the law now says, "equals or exceeds the greater of \$8000 or 40% of the value." I thought we should just eliminate the \$8000. That caused another problem, that many people believe that 40% is too high. If we get into vehicles that cost \$70,000-\$80,000, then 40% values may get excessive. If we are talking about a \$20,000 vehicle, then we are less than \$8,000. I have been contacted about a lot of people about this. I do not know for sure what to do now. At minimum we need to clean up the language "the greater of" and put a dollar value on it.

Chairman Ruby: Are you wanting someone else to propose something? It is a pre-filed bill. We will work with you to get the wording improved.

Representative Paur: In Section 5 it has a dollar amount that seems unreasonable also. Home labor listed as \$35 per hour which is too low. I don't like seeing dollar amounts because in a short time they are no longer valid.

Rep. Heinert: I did receive a suggestion of changing it to 25% across the board. Others then said it would then be less than the \$8000 for the \$20,000 vehicle. That is what is causing the concern now. Putting a percentage on it is easier, but it also creates winners and losers in the market.

Representative Grueneich: Would you be opposed to a percentage for a vehicle ten years old or older? Possibly 40%? It would get rid of the damaged title for the newer vehicles with damage over \$8,000.

Rep. Heinert: I would be open to anything right now. We should listen to those that have testimony to see if they have some good ideas.

Chairman Ruby: I think you are right. Eight thousand dollars has been confusing. We need to fix that.

Rep. Heinert: Most people just think that \$8,000 is the dollar amount for giving a vehicle a tag title.

Chairman Ruby called for testimony in support of HB 1055.

Heidi Rue, local insurance agent in Bismarck: I think that there are some changes needed. We have clients that are losing in three ways when the salvage title is at \$8,000. They lose because the insurance carrier doesn't pay for the loss of value on a vehicle with a damaged title; they lose if they sell the vehicle because it is worth less; and they also lose value on a loan. I would like to see them leave the \$8,000 for vehicles values at \$20,000 or less at the time of loss. Then leave the 40% for the vehicles above \$20,000.

Chairman Ruby: Is the damage disclosure only good for 8 years and then after that it comes off? So, after 8 years the vehicle is no longer worth more than \$20,000?

Heidi Rue: That's the way that I read it, but I can't find a place that says why it is like that.

There was no further testimony in favor of HB 1055.

Pat Ward spoke in **opposition** to HB 1055. (15:00) See attachment #1.

The point of this going back was to have serious damage disclosed. That was the motivation behind the bill originally. It has been a good thing over the years to raise the dollar amount and the percentage, but I think it would be a mistake to take it away.

Attachment #2, 2009 HB 1570, was provided, as referenced in Attachment #1

We oppose the bill as it is written.

Representative Westlind: Would it be feasible to raise the \$8,000 to \$12,000 or \$15,000?

Pat Ward: There was a move a few sessions ago to raise it to \$12,000 and 50%. That failed. I provided a copy of the bill and testimony from 2009, in case anyone wanted to look at it.

Chairman Ruby: SB 2121 in 2013 was \$12,000 and 50%. So, it was discussed at that level before.

Pat Ward: We wouldn't mind seeing it go away completely. I think if you make it higher, it will make more sense. Labor costs have risen significantly.

Representative Paur: What would be the shortcomings of doing away with this completely?

Pat Ward: Probably that you are not putting the onus on the seller to disclose any substantial damage to the vehicle, if they are aware of it. It becomes buyer beware, and they would have to do more checking to see if the vehicle has had damage.

Representative Westlind: Are there a lot of other states that have no disclosure laws?

Pat Ward: I can try to find out, but I'm not sure.

Representative Kading: What are the penalties if you fail to follow this law? Are there any other disclosure requirements?

Pat Ward: You only have to disclose if it is less(?more) than \$8,000. The penalty is in Section 6. It is a Class A misdemeanor. It could also be fraud.

Chairman Ruby: The 2009 bill was to repeal this section, but it was defeated. This does come up quite often. It seems like a wording change may help the bill to be better understood.

Pat Ward: I agree, there might be a way to say the same thing, but word it differently, so it is easier to understand.

Chairman Ruby: We will discuss this more as we get more information on it. We will not act on it today.

Steve Becker, Executive Director of Professional Insurance Agents of North Dakota: I agree with Heidi. This law, the way it is, is hurting consumers because they want the diminished value taken care of. I think the intent of this bill is to make less cars subject to disclosure, but the way the bill is written now is making more cars subject to the damage disclosure by removing the \$8,000 minimum. The \$8,000 is a floor, then it is 40% of anything above \$8,000. I don't think we want to get rid of the percentage. The only time damage disclosure would come into play now is on cars 2011 to 2019 cars. That is where the 8 years come in. I agree that all we need to do is clarify the wording.

There was no further testimony in opposition to HB 1055.

Chairman Ruby called for any neutral testimony on HB 1055.

Matthew Larsgaard, MBA, Automobile Dealers Association of North Dakota spoke in a neutral position on HB 1055. Written testimony was provided. See attachment #3.

Matthew Larsgaard: It has been said today that current law is hurting consumers. I would suggest that this is not the case. The loss that is incurred happens when the vehicle is smashed. Remember, when the diminished value of the vehicle is experienced, there could be another North Dakota resident that is considering buying that vehicle. I would conclude

with this question: If you were buying a \$40,000 vehicle, would you want to know if there had been \$15,000 of damage to it? If so, you would want to lower the current threshold.

Chairman Ruby: Changing it to 25% would be requiring more damage disclosure. Wouldn't you want some kind of a floor?

Matthew Larsgaard: We would not be opposed to a floor, and yes, we would be asking for more damage disclosure. We are all about transparency. We want the consumers to know what they are buying.

Representative Paur: Could a Carfax report replace this bill?

Matthew Larsgaard: It could be a good idea, but would we want to rely on an out-of-state entity to develop the necessary documentation? I don't think that would be a benefit to North Dakota's residents because within our damage disclosure law the report is very detailed so the specific information is included that we want our consumers to know when they purchase a vehicle.

There was no further testimony on HB 1055.
The hearing on HB 1055 was closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee Fort Totten Room, State Capitol

HB 1055
1/10/2019
30655

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to motor vehicle damage disclosure.

Minutes:

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Chairman Ruby brought HB 1055 back before the committee.

Chairman Ruby: I asked to have the language switched to show the 40% before the \$8000. To me it makes it easier to understand this way, but it really says the same thing. Now we would like to consider if the 40% is correct, or \$8000 is a correct floor. The bill itself removed the \$8000, so there is no floor. I think we should keep the floor in there rather than just go off a basic percent. The percent is the main measurement they are supposed to use.

Representative Nelson: With the cost of vehicles being so high, a vehicle could be in an accident and incur \$25,000 worth of damage, but which would be less than 40%. It has been in a serious accident, and it seems like that should be disclosed. I think we could go up higher than \$8000, and the 40% is a little high. \$10,000 and 25% seems to make more sense in today's market.

Chairman Ruby: I wish some of the auto body shops would have come in, so we could get their opinion on this. I was surprised they weren't here.

Representative Grueneich moved to raise the floor to \$10,000 and change the percent to 25%.

Representative Nelson seconded the motion.

Representative Jones: I like the \$10,000 floor. If the percentage is so confusing, why don't we just eliminate it. We are trying to balance the buyer's interest and the seller's interest. The buyer's interest has a component of safety in it that needs to be taken into consideration. A seller can explain to buyers what the damage was. I would rather just go with \$10,000 disclosure and eliminate the confusion of adding a percent.

Chairman Ruby: I don't think I would support just the \$10,000 floor. It would be a radical change. On a new vehicle \$10,000 could be a minor accident. We need to discuss the amendment on the floor.

Representative Nelson: When a vehicle is new, the damage amounts accumulate quickly. I would like to keep the percentage because of that.

**A voice vote was taken the amendment.
The motion carried.**

Rose Hanson: I have a suggestion on wording: "resulting in damage to the motor vehicle which equals or exceeds \$10,000 of the pre-damage retail of the motor vehicle.... or 25% of the value, whichever is greater."

Chairman Ruby: If people read that, I believe they would still stop reading at the \$10,000.

Lindi, do you have any idea if the Department of Transportation would be willing to work on some less confusing wording for the damage disclosure?

Lindi Michlitsch, North Dakota Department of Transportation: As far as the form, we work closely with the dealer's association, and we are willing to work to clarify the wording on the form.

Representative Paur: What would happen if we adopt the amendment, put in an asterisk, and add the 25% beside the asterisk at the bottom to draw attention to it? It's just an idea.

Chairman Ruby: Remember, after seven years there is no damage disclosure. We are trying to solve something that shouldn't be a problem, if it is just applied right. Is there a way to change this to focus on the percent? We are reviewing the % and the floor now.

Lindi Michlitsch: We just use what is on the form. We can try to make it clearer. We do work with the dealers to train them on how to read the form. We may need more education too.

Representative Nelson: To make it more understandable we could say, "Damage disclosure at 25% of the car's value ...as long as it is at least \$10,000."

Chairman Ruby: My recommendation to the committee is that we don't chance the wording of the Century Code.

**Representative Grueneich moved a DO PASS as amended on HB 1055.
Representative Jones seconded the motion.**

**A roll call vote was taken: 13 - 0 - 1
The motion carried.
Representative Grueneich will carry HB 1055.**

January 10, 2019

DA 1/10/19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1055

Page 1, line 9, remove the overstrike over "~~the greater of~~ "

Page 1, line 9, after the overstruck "~~eight~~" insert "ten"

Page 1, line 9, remove the overstrike over "~~thousand dollars of~~"

Page 1, line 10, overstrike "forty" and insert immediately thereafter "twenty-five"

Renumber accordingly

Date: 1-10-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1055

House Transportation

Committee

☐ Subcommittee

Amendment LC# or Description: 19.0419.01001

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

Grueneich

Seconded By

Nelson

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN RUBY			REP LAURIEBETH HAGER		
VICE CHAIR BECKER			REP KARLA ROSE HANSON		
REP JIM GRUENEICH			REP MARVIN NELSON		
REP TERRY JONES					
REP TOM KADING					
REP EMILY O'BRIEN					
REP MARK OWENS					
REP BOB PAULSON					
REP GARY PAUR					
REP ROBIN WEISZ	A				
REP GREG WESTLIND					

Voice Vote
Carried

Total (Yes) _____ No _____

Absent 1

Floor Assignment _____

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

Floor @ \$10,000 and 25%.

Date: 1-10-19
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1055

House Transportation Committee

☐ Subcommittee

Amendment LC# or Description: 19.0419.01001

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 Grueneich Seconded By Jones

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN RUBY	X		REP LAURIEBETH HAGER	X	
VICE CHAIR BECKER	X		REP KARLA ROSE HANSON	X	
REP JIM GRUENEICH	X		REP MARVIN NELSON	X	
REP TERRY JONES	X				
REP TOM KADING	X				
REP EMILY O'BRIEN	X				
REP MARK OWENS	X				
REP BOB PAULSON	X				
REP GARY PAUR	X				
REP ROBIN WEISZ	A				
REP GREG WESTLIND	X				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Grueneich

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

REPORT OF STANDING COMMITTEE

HB 1055: Transportation Committee (Rep. D. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1055 was placed on the Sixth order on the calendar.

Page 1, line 9, remove the overstrike over "~~the greater of~~ "

Page 1, line 9, after the overstruck "~~eight~~" insert "ten"

Page 1, line 9, remove the overstrike over "~~thousand dollars or~~"

Page 1, line 10, overstrike "forty" and insert immediately thereafter "twenty-five"

Renumber accordingly

2019 SENATE TRANSPORTATION

HB 1055

2019 SENATE STANDING COMMITTEE MINUTES

Transportation Committee Lewis and Clark Room, State Capitol

HB 1055
3/8/2019
33452

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Liz Stenehjerm

Explanation or reason for introduction of bill/resolution:

A bill relating to motor vehicle body damage disclosure.

Minutes:

1 Attachment

Representative Meier, District 32, Bismarck: I'm here today to introduce HB 1055 for a constituent. This bill is about the damage disclosure for a motor vehicle title when the vehicle sustains damage. We are seeking to amend current statute by raising the damage disclosure from \$8,000 to \$10,000 or 25% of the value of the vehicle at the time of the damage. In the past this bill has been gradually misinterpreted to a belief that any damage in excess of \$8,000 would receive a damaged vehicle title. This bill raises the dollar amount and brings to light the misinterpretation that has taken place over the years.

Matthew Larsgaard, Automobile Dealers Association of North Dakota: Please see **Attachment #1** for testimony.

Chairman Rust: A disclosure statement, does that make it a branded title?

Mr. Larsgaard: That is correct, it will have a branded title at that point.

Chairman Rust: Your thinking may be different based on whether you're buying or selling a vehicle.

Senator Dwyer: Equals or exceeds \$10,000 or 25% the greater of, so anything over \$10,000 but nothing under \$10,000?

Mr. Larsgaard: That's exactly correct, the damage disclosure reporting floor is \$10,000. In no case would you ever have to report damage that is less than \$10,000. So for example if you had a \$10,000 vehicle and it sustained \$7,000 worth of damage, even though that is 70% of the pre-damage retail value you don't have to report it. Because it's the greater of \$8,000 or 40%. One other item of note, this law only applies to vehicles that are less than 9 model years old.

Senator Dwyer: So if it's 10 years or older you don't have to do it.

Mr. Larsgaard: That is correct. So we're looking at these higher value vehicles where consumers would want to have more information regarding that vehicle.

Chairman Rust: Only applies to vehicles 9 years...

Mr. Larsgaard: That are less than 9 years old, 8 years old, 8 model years old. One other just point of note that occurred to me, anytime you transfer a title in North Dakota, whether there has been damage to the vehicle you are trading in or not; you have to fill out a damage discloser. So there's no additional administrative or regulatory burdens as a result of the issues contemplated in the bill.

Senator Bakke: You said 40% but you're moving it to 25% right?

Mr. Larsgaard: The bill contemplates 25%

Chairman Rust: We're changing from \$8,000 or 40% to \$10,000 or 25%

Mr. Larsgaard: From \$8,000 to \$10,000 and from 40% to 25%

Senator Clemens: Just quickly, how does that process work? So it goes into the body shop and it meets these criteria, then how does that system work? They notify and then they notify? The last question is, when you buy a car and this is applying the dealership has to let you know that?

Mr. Larsgaard: The body shop is required to provide the owner of the vehicle with a statement that identifies the value of the repair, both labor and parts. From that point forward, once that vehicle is traded in disclosure is required. Nothing else is required in terms of disclosure by the owner of that vehicle with one exception. If the vehicle is salvaged, which means the vehicle has experienced damage in excess of 75% I believe the owner has 10-days to resubmit the title to the Department of Transportation for a salvage branded title. (possibly) What was the second question?

Senator Clemens: If you buy a vehicle does the dealership have to notify you?

Mr. Larsgaard: Yes, typically when a vehicle is sold the dealers will inform the customers if there has been damage to that vehicle. They will provide them with a car-fax which identifies that value. The reason why dealers look at this law as so important it, we truly, truly over the years have worked hard to increase the perception and create a positive perception of the retail auto sector. One of the questions is, is there an angle here, is there a profit motivation for the dealers? No. Everyone knows that a vehicle that has been severely damaged is worth less. So our dealers are going to pay less for that vehicle, but then we're going to mark it up less, or at least proportionately a certain amount of margin, but we're going to sell it for less than if it had not been damaged. We want our customers to know what they're buying. Because that negative perception, it always comes back to us.

Chairman Rust: I smash up my vehicle and I take it to a body shop. Does that body shop have to submit that information by a VIN number of damage that's been done?

Mr. Larsgaard: DOT might be able to speak to this better than I can. It is my understanding, it seems to me the insurance world, and maybe the insurance industry can answer this better; has access to vehicle damage disclosure through different means and I think body shops might be one of them, DOT sites, other resources like car-fax.

Chairman Rust: How does a car-fax work? It's basically keyed off the VIN number isn't it kind of?

Mr. Larsgaard: Yes, it has to be keyed off the VIN number. I believe they have several different sources that they use, including DOT; we looked at this several years ago. DOT, body shops, insurance, I think the insurance also reports any damage.

Senator Clemens: For individuals that sell a car to a new owner, is this stuff required?

Mr. Larsgaard: Whether the vehicle is sold by a dealer or a casual sale, a private party transaction; the damage disclosure statement must be filled out.

Senator Clemens: How do we even know where to get those disclosures? I'm guessing 90% of the people don't even know about that stuff.

Senator Dwyer: I can tell you one way. If you sell a vehicle that's under 8-years old and you don't have that damage disclosure, when they go to title it they won't do it. So they'll come back to you to get it.

Steve Bakken: This bill actually began at my behest with Representative Pat Heinert stemming from an incident I was in and found there to be some gaps and loop holes in the system that needed to be addressed. Going back to Matt's question. On the disclosure form, the damage disclosure form from the DOT and it states, "any person who makes a false statement on this form is guilty of a class A misdemeanor." So in my situation, (shared personal story). Going back to the 8-9 years, the way it's written is it's 9-years of a new vehicle, so from the model year of the vehicle you go back 9-years for the waiver/disclaimer, it's 8-years from the date of the accident. So if I were to hold on to my vehicle for 8 years after the accident date or 9 years from the model year it never happened, I don't have to disclose anything. That's not right either. So if I hold on to the vehicle, now I don't have to disclaim that it was in an accident or what the level of the accident was? That kind of makes that a moot point. I don't propose any changes to the disclosure requirement, and I think there's actually teeth with that because it is a class A misdemeanor and then there's recourse within that. What I would propose is eliminating branded titles for damaged vehicles. Montana, Wyoming, South Dakota, Minnesota, they don't have a branded title for a damaged vehicle. Because for me, it's what's the type of the damage, who did the repairs? There's a lot of different components that come into this.

Senator Dwyer: So you say you're losing money because now you can't sell the vehicle for the full value?

Mr. Bakken: Right, when I went to trade that vehicle in, the value of that vehicle because of the branded title; now if there was just a damage disclosure that's fine. The dealers don't

mind that because everybody has dings and scrapes and things that get fixed. But branding that title as this vehicle is damaged, there's a consequence to having to having a damaged branded title.

Chairman Rust: Mr. Bakken, I'm assuming then you're testifying in favor provided there's an amendment.

Mr. Bakken: Yes, sir.

Senator Clemens: If you're the only purchasing a vehicle with a branded title, wouldn't you appreciate being notified of that?

Mr. Bakken: That's why I buy vehicles from reputable dealers. There's car-faxes that will tell you to what extent a vehicle was damaged. The branding of the title is actually more the issue. Because that's what hangs up the consumer on the front side. Like I said there are two consumers in this, there's the front consumer and the back consumer. Most people are trading in a vehicle and going off that value.

Heidi Rue, NAIFA-ND, Licensed Insurance Agent: We were in support of the original version of this bill, however, now that the threshold has been lowered to 25% we have now taken the opposite stance. I understand this is for consumer protection and I am obviously for the citizens of North Dakota. However, one of the examples I want to give you is mouse damage to wires on a vehicle. We live in North Dakota and mice get into vehicles. The last one I did three weeks ago was \$5,300 to rewire three harnesses in a 2000 Chevy Silverado. We actually ended up totaling that vehicle because of that. If it would have been only one of the wire harnesses and we replaced it then that vehicle would have ended up with a damaged branded title and therefore a reduced value. With that I'm just pointing out cost. Not everybody reports to car-fax. (shared personal story) It is the seller's responsibility to make the buyer aware of any damage. The other thing we're finding in the insurance industry, it's harder and harder to find ways to insure vehicles that either are branded damaged or salvaged. Discussed Gap Coverage.

2019 SENATE STANDING COMMITTEE MINUTES

Transportation Committee Lewis and Clark Room, State Capitol

HB 1055
3/14/2019
33704

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Liz Stenehjem

Explanation or reason for introduction of bill/resolution:

A bill relating to motor vehicle body damage disclosure.

Minutes:

1 Attachment

Chairman Rust: Reminded committee of what bill does. Also reminded committee of testimony previously provided.

Senator Bakke: I have in my notes they also talked about maybe wanting an amendment to do away with branded titles.

Chairman Rust: That is why we got these titles for you. Please see **Attachment #1** for sample titles.

Senator Dwyer: That's kind of a whole separate subject matter. I think we should leave that for another day.

Chairman Rust: That was kind of my opinion as well. On this it kind of depends on where you're coming from. However, I am kind of with Senator Dwyer on this, that if we're talking branded titles that's a whole other area.

Senator Clemens: I understand that somebody selling it probably doesn't like it, but it's the facts that that car was damaged and it's protecting the consumer.

Senator Patten: I think that's the intent of our consumer protection laws, is to protect those who are making the purchases.

Senator Dwyer: I move a **Do Pass**.

Senator Fors: I **Second** the motion.

Roll Call Vote Taken:

Do Pass 6-0-0

Carrier: Senator Bakke

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO: HB 1055**

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 Senator Dwyer Seconded By Senator Fors

Senators	Yes	No	Senators	Yes	No
Senator Rust - Chairman	X		Senator Bakke	X	
Senator Clemens - Vice Chairman	X				
Senator Dwyer	X				
Senator Fors	X				
Senator Patten	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Bakke

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

REPORT OF STANDING COMMITTEE

HB 1055, as engrossed: Transportation Committee (Sen. Rust, Chairman) recommends
DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1055
was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1055

HB 1055
1
1/4/19

Testimony of Pat Ward in Opposition to HB 1055

House Transportation Jan. 4, 2019

My name is Pat Ward. I represent the ND Domestic Insurance companies in opposition to HB 1055. We do have an issue with HB 1055. Making the requested change to the law will jeopardize ND consumers who are selling or trading a vehicle. When a customer has an accident where the damages meet the guidelines of the law they will now have a branded title. Ultimately, when they go to sell or trade the vehicle there is likely going to be a significant reduction in the value. From a claims perspective this creates a huge hurdle in settlement because the customer no longer wants the vehicle repaired and is demanding we total the vehicle when in fact it is nowhere near a total loss.

The following is an example of what will happen should HB 1055 pass. It will make vehicles that are 8 model years and newer, valued at less than \$20,000 carry a "Previously Damaged" brand on the title when the damage is less than \$8,000. Example a 2014 Chevrolet Impala is involved in an accident and the cost of repairs is \$6,500. Per the law we must look at the NADA retail value of \$14,725 and apply the 40% rule which equates to \$5,890. So in this case the law will require the owner to have the title branded "Previously Damaged" whereas under the current law we would use \$8,000 which would not require the title to be branded. At today's labor rates and part's prices you do not have to have very much damage to exceed \$8,000 let alone \$5,890.

As you are aware, Mr. Chairman and committee, there have been a number of changes to the law since it was enacted in 1991. All changes to it have been to increase the dollar amount and leave the percentage the same. The most recent SB 2121 presented to the 2013 legislative session attempted to increase the dollar amount to \$12,000 and the percentage to 50%. At that time, it was argued on the floor the percentage would account for any inflation so there would be no need to change it and the bill was defeated.

The proponents present that we are protecting the dealers and buyers' but they are not considering the consumer who is selling or trading the vehicle. The law basically punishes the honest consumers selling or trading a vehicle and benefits the dishonest ones for not disclosing.

If a buyer or dealer is concerned about a previously damaged vehicle, they can run a vehicle history report through any of the following: NMVTIS, Car Fax, Autocheck, Instavin, VINcheckup etc. We have a competent salvage titling law in place and I am advised, subject to verification, that South Dakota, Montana and Minnesota do as well. Their salvage title laws are all similar in that if something is deemed a total loss the title must be surrendered to the state and a salvage title will be issued.

I do recall and I did find the committee meeting notes for HB 1570 (2009 Legislative session) where a number of body shops testified on behalf of the bill to repeal the law. Given the short notice they may not be here today. We think they do a competent job of putting a vehicle into its pre-damage condition and this bill is not necessary or helpful. Only the consumer trading or selling his car will be hurt.

WE ask for a DO NOT PASS on HB 1055.

LIB 1055

1-4-19

#2

P.1

2009 HOUSE TRANSPORTATION

HB 1570

2009 HOUSE STANDING COMMITTEE MINUTES

HB1055
1-4-19
#2
p.2

Bill/Resolution No. HB 1570

House Transportation Committee

☐ Check here for Conference Committee

Hearing Date: 02/05/09

Recorder Job Number: 8788

Committee Clerk Signature

Jeanette Cook

Minutes:

Chairman Ruby, district 38, introduced HB 1570.

Chairman Ruby: This bill is a repeal of a section that deals with damage disclosures on titles. See attachment #1. Currently someone who is in an accident and has vehicle damage above a certain level, they must have a damage disclosure that gets put on the title. If a vehicle is totaled, it has a salvage title, that is not what this deals with. Initially you might think this is a consumer protection issue. This actually might hurt the consumer. In Section 3, it is the best interest to eliminate the dollar amount.

Representative R. Kelsch: I as a purchaser of a used vehicle would certainly want to know what kind of damage had been done. The reason that we have full disclosure is to make sure that when you purchase a vehicle you have that information. I am concerned that we are going to do something that will not protect the citizens.

Chairman Ruby stated that the coming testimony will explain why this bill is also in the best interest of citizens. It will be valuable to have this discussion.

Representative Thorpe: How many other states have rescinded this damage disclosure information?

Chairman Ruby: I didn't research that.

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Representative Potter confirmed that the only time damage needs to be disclosed is when the damage exceeds \$8,000 or 40% of the vehicle.

Jerome Lundeen who has been in the collision repair business for thirty-five years from Minot spoke in support of HB 1570. See attachment # 2.

Jay Lundeen runs the day to day operations of a collision center. He feels that this law doesn't affect them as a body shop, but it does hurt the consumer, not the person who purchases the vehicle from a dealership, but the person who sells the vehicle. He distributed testimony from **Ken Schwanke, Quality Auto Body in Fargo, ND** and talked about the testimony. See attachment #3.

Jay Lundeen feels that the law as it is written does not protect the consumer at all. It creates a watered down vehicle market that says that collision repair professionals are NOT collision repair professionals. The dealer should make check the car over to see if it has had damage that is not fixed properly.

Representative Weiler: If I get in an accident and have \$10,000 worth of damage to my vehicle. I bring it to you, and you repair it. The next day, I go and trade it in. How am I losing on that, is it going to be worth less money, even though it has been repaired back to the condition it was in before the collision?

Jay Lundeen: You are losing money because if the vehicle is worth \$20,000 and you take it to trade it in, you will get asked if it has damage. When you sign the damage disclosure, the car dealership is not going to give you the trade-in value (\$16,000) for it. A customer will not give that amount for a vehicle that has been damaged. So, you will lose money.

Representative Gruchalla: Before we had this law, there were people in the car repair business that would buy wrecked cars, fix them, and resell them. The cars may have been

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very poorly fixed. There are a lot of backyard body shops in the state. How are you going to stop that?

Jay Lundeen: You won't be able to, even with a stricter law.

Representative Vigesaa related an example of a vehicle that his car dealership had taken in trade. He had the seller sign a damage disclosure statement. The vehicle was then sold to a local customer, who drove the vehicle for three years until he had an accident. When the vehicle was taken to the body shop to be repaired, it was discovered that the vehicle had had major damage previously and been repaired. The owner of the vehicle can back to Representative Vigesaa's dealership, and he had to make it right with the buyer. It cost him thousands of dollars. How does repealing the law make this happen less often?

Jay Lundeen: This is an honest person's law. If the first seller had been honest, you wouldn't have been hurt. I feel that the dealers have to make sure that they have to examine the vehicle.

Kent Olson, lobbyist for the Professional Insurance Agents Association, spoke in support of HB 1570. We support the bill because we bear the brunt of the questions after an automobile accident. One issue is the "salvage title" which this bill doesn't deal with. The "branded title" happens after an accident if you trade a vehicle in or sell it. It doesn't cause decreased value until you sell the vehicle. An insurance contract does not insure diminutive value. Our experience has been negative with the law, it doesn't work. We would like to see it go away. It only hurts the honest person.

Matthew Larsgaard spoke in opposition to HB 1570 on behalf of the Automobile Dealers of North Dakota. See attachment #4. He corrected information that Montana, Minnesota, and South Dakota do have disclosure laws.

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Representative Delmore: I would be interested in seeing the statutes from surrounding states.

Matthew Larsgaard: I do not have that information, but can get that information for you.

Chairman Ruby: Could you comment on the loopholes that allow people to bring vehicles in from other states without showing damage on the title or someone not disclosing damage when it gets traded in.

Matthew Larsgaard: Before this law was in effect, North Dakota was considered a "title washing" state. Minnesota had disclosure. An individual would be able to take a Minnesota vehicle and bring it into North Dakota to register, then when they took it back to Minnesota the title would be "washed" because the damage didn't have to be disclosed.

Glen Jackson, Director of Motor Vehicle Division at the North Dakota DOT, spoke on behalf of the North Dakota DOT in opposition to HB 1570. See attachment # 5.

Glen Jackson: In response to Representative Delmore question. Currently twenty-eight states do not have a damage disclosure law. Twenty-six of those twenty-eight do have reconstructive or rebuilt brand status that mirrors our vehicle law. Every state has a salvage law. Thirty-five states have more than three different types of brands. Mr. Jackson reported the laws of Minnesota, Montana, Wisconsin, and South Dakota.

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Bill/Resolution No. HB 1570

House Transportation Committee

☐ Check here for Conference Committee

Hearing Date: 02/12/09

Recorder Job Number: 9391

Committee Clerk Signature

Jeanette Cook

Minutes:

Chairman Ruby brought HB 1570 before the committee. He reviewed the intent of the bill.

There has been some thought to moving the \$8,000 to \$12,000 as an adjustment for inflation.

A salvage title right now is 75%. The Lundeens thought that for these purposes 60% would be good. The auto dealers would prefer 50%.

Representative Vigesaa: I think that 60% would be too high, in my opinion. The vehicles are getting more expensive. There used to be a lot of vehicles in the \$40,000 - \$50,000, so you could have \$30,000 worth of damage and not have to disclose it. If I was purchasing a vehicle, I might want to know if a vehicle had \$29,500 worth of damage. The purpose of this legislation of this law is to protect the consumer that is purchasing the vehicle. They should know that there has been damage.

Chairman Ruby: How do you answer that there can be just as much damage from hail, and it would never be disclosed?

Representative Vigesaa: I don't think that is a problem because hail does absolutely nothing to the structure of the vehicle. The vehicle may have been hammered on the top and hood, but that is way different than getting into a \$20,000 collision. Then you are getting into suspension, all the frame, and the wheels.

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Representative Thorpe: The information that I have read in regards to this states that there are more people hurt by the law that there are protected. Having to make a disclosure statement ends up costing the people money when trading in vehicles. I think the law hurts more people than it helps.

Representative Vigesaa moves an amendment to change the threshold to 50% or \$12,000 whichever is the highest.

Representative Delmore seconded the motion.

Representative Weiler: This is only in regards to what year of vehicle?

Representative Vigesaa: It is the current year and would go back seven years. Anything 2001 or older, it wouldn't apply.

A voice vote was taken. All were in favor and the motion passed.

Representative Vigesaa moved a **Do Pass** as amended.

Representative Gruchalla seconded the motion.

A roll call vote was taken. **Aye 10 Nay 2 Absent 2**

The motion passed.

Representative Sukut will carry HB 1570.

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VR
2/13/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1570

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 3 of section 39-05-17.2 of the North Dakota Century Code, relating to body damage disclosure on titles to motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 39-05-17.2 of the North Dakota Century Code is amended and reenacted as follows:

3. As used in this section, "motor vehicle body damage" means a change in the body or structure of a motor vehicle, generally resulting from a vehicular crash or accident, including loss by fire, vandalism, weather, or submersion in water, resulting in damage to the motor vehicle which equals or exceeds the greater of ~~eight~~ twelve thousand dollars or ~~forty~~ fifty percent of the predamage retail value of the motor vehicle as determined by the national automobile dealers association official used car guide. The term does not include body or structural modifications, normal wear and tear, glass damage, hail damage, or items of normal maintenance and repair."

Renumber accordingly

Voice Vote
~~Roll Call Vote #.~~

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1570

House TRANSPORTATION

Amendment Committee

☐ Check here for Conference Committee**Legislative Council Amendment Number**

Action Taken ☒ **Do pass** ☐ **Don't Pass** ☐ **Amended**

Motion Made By

Seconded By

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman			Representative Delmore		
Rep.Weiler – Vice Chairman			Representative Griffin		
Representative Frantsvog			Representative Gruchalla		
Representative Heller			Representative Potter		
Representative R. Kelsch			Representative Schmidt		
Representative Sukut			Representative Thorpe		
Representative Vigesaa					
Representative Weisz					

All in Favor

Total	Yes	No
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Absent

Bill Carrier

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

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Date: 2-12-09 p. 10

Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1570

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do pass ☐ Don't Pass ☒ Amended

Motion Made By Vigesaa Seconded By Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman	✓		Representative Delmore	✓	
Rep. Weiler - Vice Chairman	✓		Representative Griffin	✓	✓
Representative Frantsvog	✓		Representative Gruchalla	✓	
Representative Heller	✓		Representative Potter	✓	
Representative R. Kelsch	✓		Representative Schmidt	✓	
Representative Sukut	✓		Representative Thorpe		✓
Representative Vigasaa	✓				
Representative Weisz	✓				

Total Yes 10 No 2

Absent 2

Bill Carrier Sukut

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

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12.11

REPORT OF STANDING COMMITTEE

HB 1570: Transportation Committee (Rep. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). HB 1570 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 3 of section 39-05-17.2 of the North Dakota Century Code, relating to body damage disclosure on titles to motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 39-05-17.2 of the North Dakota Century Code is amended and reenacted as follows:

3. As used in this section, "motor vehicle body damage" means a change in the body or structure of a motor vehicle, generally resulting from a vehicular crash or accident, including loss by fire, vandalism, weather, or submersion in water, resulting in damage to the motor vehicle which equals or exceeds the greater of ~~eight~~ twelve thousand dollars or ~~forty~~ fifty percent of the predamage retail value of the motor vehicle as determined by the national automobile dealers association official used car guide. The term does not include body or structural modifications, normal wear and tear, glass damage, hail damage, or items of normal maintenance and repair."

Renumber accordingly

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2009 TESTIMONY

HB 1570

39-05-17.2. Body damage disclosure Rules When required Penalty.

1. The department shall adopt rules relating to the manner and form of disclosing motor vehicle body damage on the certificate of title to a motor vehicle. The rules must provide for a damage disclosure statement from the transferor to the transferee at the time ownership of a motor vehicle is transferred and provide that the department may not transfer the title without the required damage disclosure statement.

2. Motor vehicle body damage disclosure requirements apply only to the transfer of title on motor vehicles of a model year which have been released in the current calendar year and those motor vehicles of a model year which were released in the seven calendar years before the current calendar year. When a motor vehicle has been subject to this disclosure requirement and a motor vehicle of a model year has not been released in the current calendar year or the seven calendar years before the current calendar year, the holder of the certificate of title with the damage disclosure may have the disclosure removed and a new certificate of title issued for a fee of five dollars.

3. As used in this section, motor vehicle body damage means a change in the body or structure of a motor vehicle, generally resulting from a vehicular crash or accident, including loss by fire, vandalism, weather, or submersion in water, resulting in damage to the motor vehicle which equals or exceeds the greater of eight thousand dollars or forty percent of the predamage retail value of the motor vehicle as determined by the national automobile dealers association official used car guide. The term does not include body or structural modifications, normal wear and tear, glass damage, hail damage, or items of normal maintenance and repair.

4. A person repairing, replacing parts, or performing body work on a motor vehicle of a model year which was released in the current calendar year or the seven calendar years before the current calendar year shall provide a statement to the owner of the motor vehicle when the motor vehicle has sustained motor vehicle body damage requiring disclosure under this section. The owner shall disclose this damage when ownership of the motor vehicle is transferred. When a vehicle is damaged in excess of seventy-five percent of its retail value as determined by the national automobile dealers association official used car guide, the person repairing, replacing parts, or performing body work on the motor vehicle of a model year which has been released in the current calendar year or the seven calendar years before the current calendar year shall also advise the owner of the motor vehicle that the owner of the vehicle must comply with section 39-05-20.2.

5. The amount of damage to a motor vehicle is determined by adding the retail value of all labor, parts, and material used in repairing the damage. When the retail value of labor has not been determined by a purchase in the ordinary course of business, for example when the labor is performed by the owner of the vehicle, the retail value of the labor is presumed to be the product of the repair time, as provided in a generally accepted autobody repair flat rate manual, multiplied by thirty-five dollars.

6. A person who violates this section or rules adopted pursuant to this section is guilty of a class A misdemeanor.

Attachment #2

Jerome Lundeen

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? #2

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Subject: [REDACTED] HB1570

This is a testimonial regarding the Salvage Law and the Damage Disclosure Law. Dealership body shops must NOT do quality repairs because they are behind this law. The North Dakota Dealership Association drafted this law in either 1997 or 1998, and from my understanding they are still opposing it. They must not trust their shops to do quality repairs because they have to have a marked title because of the damage disclosure law. The only one that loses on this is the consumer; it decreases the value of their vehicle. Another thing, is why they have an eight year period where you can get the title cleaned. In other words, they can eliminate the damage disclosure which makes no sense at all. What benefit is that to the consumer? If it is to be marked, then it should stay marked. And there is no reason it should be marked in the first place. We have a Total Loss Salvage Law which is fine, and it should be that way. This law actually protects the consumer, unlike the Damage Disclosure Law which hurts the consumer. The Dealership Organization in this state wanted that law to make it easier for them selves so they didn't have to do a decent appraisal inspection when they are taking trade-ins in. If they open the hood and go underneath the car, inside the car, and drive the car, they will be able to tell if there is any damage to the vehicle. It is very easy to see if the work has been done improperly. The dealerships know that and they have body shop people and mechanics that can check it, and detail people that do their detail. So, it

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would mean a little bit more work on their part to check out cars when they take them in trade instead of trying to mark everybody's title that has an accident with a damage total of over \$8,000 or 40%. It is very unfair to the consumer to mark the title for any amount. We, collision repair businesses, which have been in the business continually go through certification classes and keep updated. A lot of our technicians are trained in Wahpeton for two years and come out into the field and work under a journeyman while continuing to attend corresponding classes through ASE or ICAR. They keep up on our changing automobile designs, frames, suspensions, and mechanical work and they are recertified in their training of all parts of the car. It is an ongoing thing that we do, and any shop worth its salt does it. So, there is no reason to have these cars marked because we are professionals, just like a plumber or an electrician. The repairs are guaranteed in quality. Another point in my shop, Jerome's Collision Center in Minot, ND, is that we give a lifetime warranty on the repairs. So, as far as I know, any shop that does business in Minot or throughout the state gives a lifetime warranty on their repairs. If we were not doing them properly and correctly, we surely couldn't do this. All they have to do is call the shops and verify what I am saying regarding this warranty question. The legislatures that are going to vote on this can call the shops in Minot, Bismarck, Fargo, and wherever to verify the warranty process of the shops throughout the state. We could not afford to give warranties such as this if the repairs were not done right.

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We get paid to repair these cars to their pre-loss condition, and we wouldn't be in business if we didn't accomplish this. We would lose our customers trust, and they would quit coming to us. I would like to thank the committee for their time with H.B. 1570. A new or next to new car owner should not have to lose money because of a properly repaired automobile.

From: Quality Auto Body in Fargo.

Regarding the North Dakota damage disclosure:

- The consumer is at a disadvantage. Very few consumers are even aware of the disclosure law until they are selling or trading in their vehicle and even fewer consumers realize it could cost them again because of an accident they had in the past.
- The diminished value assessed to a consumer by a dealer because of the ND Damage Disclosure will many times exceed \$3000.00 depending on the retail value of the vehicle being traded in.
- Insurance companies do not recognize a loss based on diminished value even though many consumers experience the additional loss when signing the ND Damage Disclosure. The insurance companies' responsibility is to pay for the repairs to return it to its pre-accident conditions.
- The law in its current form shelters the dealer but costs the consumer. Regardless of the quality of repair the damage discloser will diminish the value of the consumers' car by virtue of what the disclosure is. In the defense of the dealer It can also diminish the local resale market for the car but the dealer usually has purchased it for less protecting his margins. On the other hand many other markets are open to the dealer where the North Dakota disclosure isn't required and the signed damage disclosure, unneeded by others can remain in the dealer company file. In this case the ND consumer is penalized by the requirement of the disclosure and the dealer gets to take complete advantage of it.
- Put another way, the damage disclosure disclaimer is not printed on the title until the title has been renewed by the NDDOT by another ND resident. Before this happens however the title is clean, but the seller is obligated by law to diminish the value of his vehicle by virtue of signing the damage disclosure. The buyer then receives a clean title and a signed damage disclosure form from the seller. The dealer on the other hand if selling the vehicle out of state is not compelled by another state to disclose the damage or give the damage disclosure form, only the clean, unmarked title, thereby taking advantage of the seller by nature of the law that required the dealer to require the disclosure form from the seller in the first place.
- The law was intended to protect consumers but in turned into a law that costs many consumers outrageous amounts of dollars simply because they're car was properly repaired.
- The best financial choice for the ND consumer is to sell or trade his car outside of our state and avoid the need for the discloser in the first place. No one should want this.
- Discrimination: A \$50,000 vehicle can have \$20,000 worth of damage before a disclosure is required a \$22,000 vehicle only needs \$8,800 to require a disclosure.

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- Unfair: A hail damaged vehicle can require all new panels, be completely ripped apart to be repaired, but does not require a disclosure. Who's that protecting?

Ken Schwanke

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TESTIMONY ON HOUSE BILL 1570
HOUSE TRANSPORTATION
FEBRUARY 5, 2009

Mr. Chairman and members of the committee. My name is Matthew Larsgaard and I am appearing before you today in opposition to House Bill 1570 on behalf of the Automobile Dealers Association of North Dakota which consists of approximately 100 franchised new car dealers in our state.

Body damage disclosure was added to Section 39-05 by the legislative assembly in 1991. It was the result of over two years of discussions among representatives of the various motor vehicle related industries and government regulators. Prior to the 1989 legislative session, the Motor Vehicle Department established an informal "Motor Vehicle Advisory Committee". This committee consisted of the new car dealers, used car dealers, lenders, insurance companies, rebuilders, dismantlers, body shops, Tax Department, Consumer Fraud Division of the Attorney General's Office, Highway Patrol, and the Department of Transportation.

Early meetings of the committee established the fact that problems related to the sale and distribution of damaged vehicles was the most important concern to members of the committee. The genesis of the body damage disclosure is a result of this committee's work.

During the 1991 legislative session the Director of the Attorney General's Consumer Fraud Section submitted testimony that the Attorney General believed that there is a need for a damage disclosure rule. That, from their perspective, both the consumer and the car dealer have a right to know whether or not the vehicle being bought or traded in had been in an automobile accident.

Since 1991 there have been several changes made to Section 39-05-17.2. In almost every case, initiatives were taken to raise the damage disclosure threshold to account for the increasing value of motor vehicles and the escalating costs of repair. In 1991 the threshold was set at \$3,000; in 1997 it was raised to the greater of \$5,000 or 40% of the predamage retail value; in 1999 it was raised to \$8,000 with the 40% language remaining unchanged.

Members of the committee, damage disclosure is a **consumer protection issue**. Without it a vehicle could be "patched up", having the severe damage disguised, and re-enter the market. The vehicle might not have been repaired properly and conditions may still exist that would compromise the **vehicle's safety and handling**.

It is also widely recognized that a severely damaged vehicle, even after being repaired, is of less value than a similar undamaged vehicle. Without disclosure these vehicles will have clean titles; consumers might purchase these potentially overpriced vehicles without ever knowing the extensive damage they sustained.

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Current law provides the best of both worlds for damaged vehicles; it sets the damage disclosure threshold at a reasonable level and provides for the inflationary costs for more expensive vehicles. It also allows consumers and dealers to have the information they need to make informed decisions about the safety and fair market value of used cars.

The dealers I represent have indicated the current law is working quite well and request that the proposed repeal be set aside.

Mr. Chairman, this concludes my testimony in opposition to House Bill 1570. Thank you for the opportunity to testify.

Matthew C. Larsgaard
Automobile Dealers Association of North Dakota

HOUSE TRANSPORTATION COMMITTEE

February 5, 2009

10:30 a.m. Fort Totten Room

**North Dakota Department of Transportation
Glenn Jackson, Director Motor Vehicle Division**

HB 1570

Good afternoon, Mr. Chairman and members of the committee. I'm Glenn Jackson, Director of the Motor Vehicle Division at the North Dakota Department of Transportation. Thank you for giving me the opportunity to present information to you today.

The NDDOT opposes House Bill 1570. This bill would eliminate the entire damage disclosure provisions of the century code. The damage disclosure provides a direct process to affect the type of branding for our titles. Branding is the process of establishing a status to a vehicle. For example the flood brand means a vehicle was involved in a situation that could lead to rust or wiring issues, even though the vehicle appears new. Current ND title brand statistics:

Previous Damage: 18,872
Previous Salvage: 32,089
Salvage: 14,683
Total Brands: 65,644
Total Title Records: 1,521,630

Currently, the statute sets a threshold to determine "motor vehicle body damage," which means that damage through a crash, accident, fire, vandalism or flooding equals or exceeds the greater of eight thousand dollars or forty percent of the pre-damage retail value as determined by the National Automobile Dealers Association official used car guide. The current damage disclosure enables a citizen to know at the time of purchase if a vehicle has received significant damage in its history. Removing this would remove a safeguard for our citizens. Also, ND could potentially be targeted as a "clearing" house to wash title brands from other states. Without these brands we effectively delete reciprocal agreements amongst the states, which could lead to other states not accepting ND vehicle titles.

In addition, the National Motor Vehicle Title Information System (NMVTIS) final rule from the Department of Justice was released on January 30, 2009, which requires full implementation of the system to be complete by January 2010. This system will require various brands to be sustained for all vehicles. Currently, the brands provided by North Dakota meet the needs of the NMVTIS system. Removing the damage disclosure may infringe on our ability to report effectively within this system and deny our citizens access to vehicle information the rule requires.

For these reasons, the department opposes HB1570.
Thank you, Mr. Chairman, I would be happy to answer any questions.

House Bill 1055
Testimony before House Transportation Committee
Matthew C. Larsgaard, MBA
Automobile Dealers Association of North Dakota
9:30 a.m., January 4, 2018

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1/1/19

Mr. Chairman and ~~members~~^{neutral} of the committee, my name is Matthew Larsgaard and I am appearing in support of the proposed amendment to House Bill 1055 on behalf of the Automobile Dealers Association of North Dakota which consists of our state's franchised new car dealers. Representative Heinert was very willing to address our thoughts through the proposed amendment and we would like to extend our appreciation to him.

Body damage disclosure was added to Section 39-05 by the legislative assembly in 1991. It was the result of over two years of discussions among representatives of the various motor vehicle related industries and government regulators. Prior to the 1989 legislative session, the Motor Vehicle Department established an informal "Motor Vehicle Advisory Committee". This committee consisted of the new car dealers, used car dealers, lenders, insurance companies, rebuilders, dismantlers, body shops, Tax Department, Consumer Fraud Division of the Attorney General's Office, Highway Patrol, and the Department of Transportation.

Early meetings of the committee established that problems related to the sale and distribution of damaged vehicles was the most important concern to members of the committee. The genesis of the body damage disclosure law is a result of this committee's work.

During the 1991 legislative session the Director of the Attorney General's Consumer Fraud Section submitted testimony stating the Attorney General believed there was a need for a damage disclosure rule **and that, from their perspective, both the consumer and the motor vehicle dealer have a right to know whether or not the vehicle being bought or traded in had been in an accident.**

HB 1055 will make the motor vehicle damage disclosure requirements easier to understand and adjusts the reporting threshold to a more reasonable rate given the high-value vehicles that are in use on North Dakota roads.

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Members of the committee, damage disclosure is a **consumer protection issue**. Without it a vehicle could be "patched up", having severe damage disguised, and re-enter the market. The vehicle might not have been repaired properly and conditions may still exist that compromise the **vehicle's safety and handling**. The damage disclosure requirement allows consumers and dealers to have the information they need to make informed decisions about the **safety** and fair market value of used automobiles.

In closing I ask this question: if you were buying a \$40,000 vehicle would you want to know if there was \$15,000 in damage to it? If so, you would need to vote in favor of this legislation. — lower it to current threshold .

Mr. Chairman, this concludes my testimony. Thank you for the opportunity to testify.

Matthew C. Larsgaard, MBA

Automobile Dealers Association of North Dakota

NDCC 39-05-17.2

Motor Vehicle Damage Disclosure Requirements

1/1/19

Row #	CURRENT LAW		HB 1055	
	Predamage Value of Vehicle	A	B	
		40%	25%	
1	\$ 5,000	\$ 2,000	\$ 1,250	
2	\$ 10,000	\$ 4,000	\$ 2,500	
3	\$ 15,000	\$ 6,000	\$ 3,750	
4	\$ 19,999	\$ 7,999.6	\$ 4,999.8	
5	\$ 20,000	\$ 8,000	\$ 5,000	
6	\$ 25,000	\$ 10,000	\$ 6,250	
7	\$ 30,000	\$ 12,000	\$ 7,500	
8	\$ 35,000	\$ 14,000	\$ 8,750	
9	\$ 40,000	\$ 16,000	\$ 10,000	
10	\$ 45,000	\$ 18,000	\$ 11,250	
11	\$ 50,000	\$ 20,000	\$ 12,500	
12	\$ 55,000	\$ 22,000	\$ 13,750	
13	\$ 60,000	\$ 24,000	\$ 15,000	
14	\$ 65,000	\$ 26,000	\$ 16,250	
15	\$ 70,000	\$ 28,000	\$ 17,500	
16	\$ 75,000	\$ 30,000	\$ 18,750	
17	\$ 80,000	\$ 32,000	\$ 20,000	
18	\$ 85,000	\$ 34,000	\$ 21,250	
19	\$ 90,000	\$ 36,000	\$ 22,500	
20	\$ 95,000	\$ 38,000	\$ 23,750	
21	\$ 100,000	\$ 40,000	\$ 25,000	

Not reportable damage with \$8,000 threshold.

- Under current law, any vehicle with a value of more than \$20,000 would use the 40% ratio to determine if disclosure is required.

- Under HB 1055, any damage that equals or exceeds 25% of the pre-damage retail value of the vehicle is reportable.

DAMAGE/SALVAGE DISCLOSURE STATEMENT

North Dakota Department of Transportation, Motor Vehicle
SFN 18609 (1-2018)

MOTOR VEHICLE DIVISION
ND DEPT OF TRANSPORTATION
608 E BOULEVARD AVE
BISMARCK ND 58505-0780
Telephone (701) 328-2725
Fax (701) 328-1487
Website: <https://dot.nd.gov>

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This form **MUST** be completed by the transferor (seller) for all vehicles less than nine (9) model years old.

This form **MUST** be signed by the transferor (seller), given to and signed by the transferee (buyer), and accompany the application for title.

Year	Make	Model	Style
Vehicle Identification Number (VIN)			Title Number

DAMAGE DISCLOSURE: NDCC 39-05-17.2

Within the past eight (8) years, has this vehicle sustained body or structural damage from a vehicular crash or accident, including loss by fire, vandalism, weather, or submersion in water, resulting in damage to the motor vehicle? *The term does not include body or structural modifications, normal wear and tear, glass damage, hail damage, or items of normal maintenance and repair.*

☐ Yes ☐ No

If vehicle has sustained damage please answer the following questions:

(See NDCC 39-05-20.2 and NDAC 37-09-01-02)

Do the damages equal or exceed the greater of \$8,000 or forty percent (40%) of the pre-damage retail value of the motor vehicle as determined by the national automobile dealers association official used car guide?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do the damages exceed seventy-five percent (75%) of its retail value?	<input type="checkbox"/> Yes* <input type="checkbox"/> No
<i>*If you answered yes, please check the box below that best describes your situation:</i>	
<input type="checkbox"/> Damage occurred in a single occurrence while I have owned the vehicle.	
<input type="checkbox"/> I acquired the vehicle with unrepaired damage.	
<input type="checkbox"/> Damages occurred prior to my ownership and I acquired it in a repaired condition.	
Explanation of Damage	
Type of Damage (check all that apply) <input type="checkbox"/> Collision <input type="checkbox"/> Weather <input type="checkbox"/> Theft <input type="checkbox"/> Interior <input type="checkbox"/> Water <input type="checkbox"/> Vandalism <input type="checkbox"/> Fire <input type="checkbox"/> Under Carriage <input type="checkbox"/> Other	

Any person who makes a false statement on this form is guilty of a Class A Misdemeanor.

Name of Transferor (Seller)		Daytime Telephone Number	
Mailing Address	City	State	ZIP Code
Signature of Transferor (Seller)			Date

Legal Name of Transferee (Buyer)		Daytime Telephone Number	
Mailing Address	City	State	ZIP Code
Signature of Transferee (Buyer)			Date

House Bill 1055
Testimony before Senate Transportation Committee
Matthew C. Larsgaard, MBA
Automobile Dealers Association of North Dakota
10:30 a.m., March 8, 2019

3/3/19

Mr. Chairman and members of the committee, my name is Matthew Larsgaard and I am appearing in support of House Bill 1055 on behalf of the Automobile Dealers Association of North Dakota which consists of our state's franchised new car dealers.

Body damage disclosure was added to Section 39-05 by the legislative assembly in 1991. It was the result of over two years of discussions among representatives of the various motor vehicle related industries and government regulators. Prior to the 1989 legislative session, the Motor Vehicle Department established an informal "Motor Vehicle Advisory Committee". This committee consisted of the new car dealers, used car dealers, lenders, insurance companies, rebuilders, dismantlers, body shops, Tax Department, Consumer Fraud Division of the Attorney General's Office, Highway Patrol, and the Department of Transportation.

Early meetings of the committee established that problems related to the sale and distribution of damaged vehicles were the most important concerns to members of the committee. The genesis of the body damage disclosure law is a result of this committee's work.

During the 1991 legislative session, the Director of the Attorney General's Consumer Fraud Section submitted testimony stating the Attorney General believed there was a need for a damage disclosure rule **and that, from their perspective, both the consumer and the motor vehicle dealer have a right to know whether or not the vehicle being bought or traded in had been in an accident.**

Since 1991, there have been several changes made to Section 39-05-17.2. In almost every case, initiatives were taken to raise the damage disclosure threshold to account for the increasing value of motor vehicles and the escalating costs of repair. In 1991, the threshold was set at \$3,000; in 1997, it was raised to the greater of \$5,000 or 40% of the pre-damage retail value; in 1999, it was raised to \$8,000 with the 40% language remaining unchanged.

As a result of inflationary trends, we agree that it is once again reasonable to raise the static dollar threshold from \$8,000 to \$10,000. However, as a result of the increase in the number of high-value vehicles on the road today, the existing 40% threshold has become too high. HB 1055 contemplates a 25% threshold that would provide for a more reasonable level of damage disclosure for these high-value vehicles.

Members of the committee, damage disclosure is a **consumer protection issue**. Without it, a vehicle could be "patched up," having severe damage disguised, and re-enter the market. The vehicle might not have been repaired properly, and conditions could still exist that compromise the **vehicle's safety and handling**. The damage disclosure requirement allows consumers and dealers to have the information they need to make informed decisions about the **safety** and fair market value of used automobiles.

In closing I ask this question: if you were buying a \$50,000 vehicle, would you want to know if there has been almost \$20,000 in damage to it? If so, you would need to vote in favor of this legislation.

Mr. Chairman, this concludes my testimony. Thank you for the opportunity to testify.

Matthew C. Larsgaard, MBA
President/CEO
Automobile Dealers Association of North Dakota

NDCC 39-05-17.2**Motor Vehicle Damage Disclosure Requirements**

3/2/19

Row #	CURRENT LAW		HB 1055	
	Predamage Value of Vehicle	A	B	
		40%	25%	
1	\$ 5,000	\$ 2,000	\$ 1,250	
2	\$ 10,000	\$ 4,000	\$ 2,500	
3	\$ 15,000	\$ 6,000	\$ 3,750	
4	\$ 19,999	\$ 7,999.6	\$ 4,999.8	
5	\$ 20,000	\$ 8,000	\$ 5,000	
6	\$ 25,000	\$ 10,000	\$ 6,250	
7	\$ 30,000	\$ 12,000	\$ 7,500	
8	\$ 35,000	\$ 14,000	\$ 8,750	
9	\$ 40,000	\$ 16,000	\$ 10,000	
10	\$ 45,000	\$ 18,000	\$ 11,250	
11	\$ 50,000	\$ 20,000	\$ 12,500	
12	\$ 55,000	\$ 22,000	\$ 13,750	
13	\$ 60,000	\$ 24,000	\$ 15,000	
14	\$ 65,000	\$ 26,000	\$ 16,250	
15	\$ 70,000	\$ 28,000	\$ 17,500	
16	\$ 75,000	\$ 30,000	\$ 18,750	
17	\$ 80,000	\$ 32,000	\$ 20,000	
18	\$ 85,000	\$ 34,000	\$ 21,250	
19	\$ 90,000	\$ 36,000	\$ 22,500	
20	\$ 95,000	\$ 38,000	\$ 23,750	
21	\$ 100,000	\$ 40,000	\$ 25,000	

Not reportable damage with \$8,000 threshold.

- Under current law, any vehicle with a value of more than \$20,000 would use the 40% ratio to determine if disclosure is required.

- Under HB 1055, any damage that equals or exceeds 25% of the pre-damage retail value of the vehicle is reportable.

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03/08/2019 – Title samples

Provided by the Motor Vehicle Division, North Dakota Department of Transportation

Certificate of Title sample (no brand):


CERTIFICATE OF TITLE FOR A VEHICLE				ND DEPT. OF TRANSPORTATION	
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION				MOTOR VEHICLE DIVISION	
SFN 2875 (Rev. 06-16)				608 E BOULEVARD AVE	
				BISMARCK ND 58505-0780	
				Telephone: (701) 328-2725	
VIN	YEAR MODEL	YEAR REGISTERED	MAKE	BODY STYLE	MODEL
1N4AL3AP1FC497677	2015	2015	NISSAN	SEDAN	ALTIMA
OWNER(S) NAME SAMPLE, SAMPLE	TITLE NUMBER ND1710211072		VEHICLE TYPE PASSENGER	SHIPPING WEIGHT 3089	DATE ISSUED 9/30/2016
ODOMETER READING 54888 MI				ODOMETER STATUS ACTUAL	
MAIL TO: SAMPLE SAMPLE 123 SAMPLE STREET SAMPLE ND 11111			SAMPLE - VOID		

As outlined in the online [Motor Vehicle Registration Manual](#), below is the damaged vehicles summary:


Damaged Vehicles: 39-05-17.2, 39-05-20.1, 39-05-20.2 (NDCC)

- Any vehicle being transferred into North Dakota with a branded certificate of title will be issued a branded North Dakota certificate of title.
- North Dakota will not accept certificate of titles for vehicles from any other state or foreign country that are branded "CERTIFICATE OF DESTRUCTION," "DISMANTLED," "JUNK," "NON-REBUILDABLE," "PARTS ONLY," "UNREPAIRABLE," or any other similar notation.
- Certificate of titles branded as salvage will be accepted.
- Certificate of titles issued for damaged vehicles will have one of the following brands:
 - THIS VEHICLE HAS BEEN PREVIOUSLY DAMAGED. IF YOU REQUIRE FURTHER INFORMATION, PLEASE CONTACT THE DOT.
 - SALVAGE VEHICLE - VEHICLE INSPECTION REQUIRED PRIOR TO REGISTRATION.
 - PREVIOUSLY SALVAGED - THIS VEHICLE HAS BEEN PREVIOUSLY DAMAGED. IF YOU REQUIRE FURTHER INFORMATION, PLEASE CONTACT THE DOT.

Previously Damaged Certificate of Title sample:

LEGAL DOCUMENT		KEEP IN A SAFE PLACE	
CERTIFICATE OF TITLE FOR A VEHICLE NORTH DAKOTA DEPARTMENT OF TRANSPORTATION SFN 2875 (Rev. 06-16)			
			
ND DEPT. OF TRANSPORTATION MOTOR VEHICLE DIVISION 608 E BOULEVARD AVE BISMARCK ND 58505-0780 Telephone: (701) 328-2725			
VIN 1N4AL3AP1FC497677	YEAR MODEL 2015	YEAR REGISTERED 2015	MAKE NISSAN
OWNER(S) NAME SAMPLE, SAMPLE		TITLE NUMBER ND1306075136	BODY STYLE SEDAN
		VEHICLE TYPE PASSENGER	MODEL ALTIMA
		SHIPPING WEIGHT 3089	DATE ISSUED 9/30/2016
		ODOMETER READING 58965 MI	ODOMETER STATUS ACTUAL
MAIL TO: SAMPLE SAMPLE 123 SAMPLE STREET SAMPLE ND 111 11		THIS VEHICLE HAS BEEN PREVIOUSLY DAMAGED. IF YOU REQUIRE FURTHER INFORMATION, PLEASE CONTACT THE D.O.T.	
SAMPLE - VOID			

Previously Salvaged Certificate of Title sample:

LEGAL DOCUMENT		KEEP IN A SAFE PLACE	
CERTIFICATE OF TITLE FOR A VEHICLE NORTH DAKOTA DEPARTMENT OF TRANSPORTATION SFN 2875 (Rev. 06-16)			
			
ND DEPT. OF TRANSPORTATION MOTOR VEHICLE DIVISION 608 E BOULEVARD AVE BISMARCK ND 58505-0780 Telephone: (701) 328-2725			
VIN 1N4AL3AP1FC497677	YEAR MODEL 2015	YEAR REGISTERED 2015	MAKE NISSAN
OWNER(S) NAME SAMPLE, SAMPLE		TITLE NUMBER ND1103437824	BODY STYLE SEDAN
		VEHICLE TYPE PASSENGER	MODEL ALTIMA
		SHIPPING WEIGHT 3089	DATE ISSUED 9/30/2016
		ODOMETER READING 102562 MI	ODOMETER STATUS ACTUAL
MAIL TO: SAMPLE SAMPLE 123 SAMPLE STREET SAMPLE ND 11111		PREVIOUSLY SALVAGED THIS VEHICLE HAS BEEN PREVIOUSLY DAMAGED. IF YOU REQUIRE FURTHER INFORMATION, PLEASE CONTACT THE D.O.T.	
SAMPLE - VOID			

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Salvage Certificate of Title sample:

LEGAL DOCUMENT - KEEP IN A SAFE PLACE

CERTIFICATE OF TITLE FOR A VEHICLE
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
SFN 2875 (Rev. 06-16)

ND DEPT. OF TRANSPORTATION
MOTOR VEHICLE DIVISION
608 E BOULEVARD AVE
BISMARCK ND 58505-0780
Telephone: (701) 328-2725

VIN 1N4AL3AP1FC497677	YEAR MODEL 2015	YEAR REGISTERED 2015	MAKE NISSAN	BODY STYLE SEDAN	MODEL ALTIMA
OWNER(S) NAME SAMPLE, SAMPLE	TITLE NUMBER ND368033792		VEHICLE TYPE PASSENGER	SHIPPING WEIGHT 3089	DATE ISSUED 9/30/2016
ODOMETER READING 75482 MI				ODOMETER STATUS ACTUAL	

MAIL TO: SAMPLE SAMPLE
123 SAMPLE STREET
SAMPLE ND 11111

SAMPLE - VOID

* **SALVAGE VEHICLE** *

IF YOU REQUIRE FURTHER INFORMATION
PLEASE CONTACT THE D.O.T. SALVAGE
VEHICLE INSPECTION REQUIRED PRIOR TO
REGISTRATION.