

**2019 HOUSE TRANSPORTATION**

**HB 1058**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Transportation Committee**  
Fort Totten Room, State Capitol

HB 1058  
1/4/2019  
#30425

- Subcommittee  
 Conference Committee

Committee Clerk: Jeanette Cook

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

A bill relating to unattended motor vehicles; and to provide a penalty.

## **Minutes:**

**Chairman Ruby** opened the hearing on HB 1058.

**Representative Johnston, District 24**, introduced HB 1058.

**Representative Johnston:** This part of the Century Code should be changed because the law goes against the will of the people. The law is ineffective. The citizenry of North Dakota recognizes bad law and so have largely ignored it. It is also an obscure law. No one knows about it. The amount of people that leave their vehicle running will not change. Getting into a warm vehicle in North Dakota is engrained into the people; it is part of our culture. We should not burden our Law Enforcement with laws like this one. I would ask for a DO PASS from the committee.

**Representative Hanson:** Do you know how this change will affect people's liability coverage if they leave their vehicles unlocked with the motor running?

**Representative Johnston:** No, I don't.

**Donnell Preskey, North Dakota Association of Counties**, spoke for Law Enforcement to relay their support for HB 1058.

**Chairman Ruby:** Have you heard from them if anyone has ever enforced the law?

**Danielle Preske:** No, I haven't.

There was not further support for HB 1058.

There was no opposition for HB 1058.

The hearing was closed on HB 1058.

House Transportation Committee

HB 1058

1-4-19

Page 2

**Representative Grueneich moved a DO PASS on HB 1058.  
Representative Westlind seconded the motion.**

**A roll call vote was taken on HB 1058: Yes 9 No 0 Absent 5  
HB 1058 passed.**

**Representative Grueneich will carry HB 1058.**

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1058**

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 Rep. Grueneich Seconded By Rep. Westlind

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

Total (Yes) 9 No 0

Absent 5

Floor Assignment Rep. Grueneich

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

**REPORT OF STANDING COMMITTEE**

**HB 1058: Transportation Committee (Rep. D. Ruby, Chairman) recommends DO PASS**  
(9 YEAS, 0 NAYS, 5 ABSENT AND NOT VOTING). HB 1058 was placed on the  
Eleventh order on the calendar.

**2019 SENATE TRANSPORTATION**

**HB 1058**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Transportation Committee**  
Lewis and Clark Room, State Capitol

HB 1058  
3/14/2019  
33702

- Subcommittee  
 Conference Committee

Committee Clerk: Liz Stenehjem

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

A BILL relating to unattended motor vehicles; and to provide a penalty.

## **Minutes:**

1 Attachment

**Representative Daniel Johnston, District 24:** Please see **Attachment #1** for testimony.

**Chairman Rust:** Just to be clear, you said you would be real happy with just repealing all of section 39-10-51?

**Representative Johnston:** That is correct.

**Chairman Rust:** I see the words "or street" were added. That evidently wasn't in the original bill. So it just was on the highways, we don't have to do this if we were in town?

**Representative Johnston:** I suppose that's open for interpretation, I'm not sure. When I brought the bill to the House side, I was in committee and I said you know it's good to lighten the load when we can. I think this is a classic example of we could actually axe a whole section and nobody would miss it.

**Chairman Rust:** Did you consult anybody in law enforcement about doing this?

**Representative Johnston:** No, but on the House side Donnell Preskey testified on behalf of the North Dakota Sheriff's Association, and they're in favor of this bill.

**Chairman Rust:** How many people do you think really set the park break in their vehicle now days when they park by the curb?

**Representative Johnston:** Good question.

**Senator Bakke:** When you leave your vehicle unattended and it's running and someone gets in it and drives off. Because you left it running does that cause problems for insurance companies as far as replacement. Does that negate your insurance coverage of that car, because you left it unattended?

**Representative Johnston:** I would say that would be something that somebody should ask their insurance provider. I'm not sure, but no insurance entities testified against this bill and raised that concern.

**Senator Patten:** If we were to amend this to repeal and it gets sent back to the House, is that something you feel would pass?

**Representative Johnston:** I'm confident it would pass the House.

**Senator Dwyer:** You said something about the will of the people. Was that based on a vote, or what was that based on?

**Representative Johnston:** I would say that's an unofficial poll on my part. Whenever I go to town; or if you to Walmart or anywhere you see many vehicles running. Obviously it's a law that either people don't know about or they don't care about.

**Senator Clemens:** It doesn't seem like whether your vehicle is locked or not has any bearing on this. If a person has his car locked and running you could still get fined the way it is now, correct?

**Representative Johnston:** That's correct, you could get cited.

**Chairman Rust:** I assume you can get cited, is there a fine for it right now?

**Representative Johnston:** I believe there is.

**Chairman Rust:** Closed hearing on HB 1058.



# 2019 SENATE STANDING COMMITTEE MINUTES

**Transportation Committee**  
Lewis and Clark Room, State Capitol

HB 1058  
3/14/2019  
33764

- Subcommittee  
 Conference Committee

Committee Clerk: Liz Stenehjem

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

A bill relating to unattended motor vehicles.

## Minutes:

1 Attachment

**Chairman Rust:** Reminded committee what bill does. Spoke to someone from the insurance industry to see what they thought of getting rid of the section. They agree it should be repealed. Also spoke to Donnell Preskey who had testified in favor of this bill in the House; she had no trouble with getting rid of the entire section either. It seems to me 39-10-51 is pretty antiquated and so I went the Legislative Council and got an amendment. Please see **Attachment #1** for amendment 19.0432.01001. The amendment is basically a hog-house amendment.

**Senator Patten:** I move a **Do Pass** on **Amendment 19.0432.01001**

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

**Recorded Roll Call Vote Taken:**  
**Amendment Passed 6-0-0**

**Senator Patten:** I move **Do Pass as Amended**.

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

**Senator Clemens:** So what this bill is going to do, in referencing all these sections, you can leave your car running.

**Senator Patten:** And you don't have to turn your steering wheel.

**Chairman Rust:** It eliminates from code this language, "no person driving or in charge of a motor vehicle without first stopping the engine, effectively setting the brake there on and when standing upon any grade turning the front wheels to the curb or side of the highway." It eliminates that language.

**Senator Clemens:** Then we're adding in the amendment information.

**Chairman Rust:** All we're doing there is just eliminating the reference to that. The amendment just eliminates the reference on the non-moving violations, it eliminates that, because it's no longer there. 39-10-51 will no longer be there if we repeal it.

**Senator Dwyer:** the 39-06.1-08 it just says non-moving violations are violations of these sections and there's a whole bunch of them, but that's all it does.

**Roll Call Vote Taken:**

**Passed as Amended 6-0-0**

**Carrier:** Senator Patten

March 14, 2019

8/23/14  
1081

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1058

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 39-06.1-08 of the North Dakota Century Code, relating to nonmoving violations; and to repeal section 39-10-51 of the North Dakota Century Code, relating to unattended motor vehicles.

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

**SECTION 1. AMENDMENT.** Section 39-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-08. Nonmoving violation defined.**

For the purposes of section 39-06.1-06, a "nonmoving violation" means:

1. A violation of section 39-04-11, subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, subsection 4 of section 39-06-17, and section 39-06-44, 39-06-45, 39-10-47, 39-10-49, 39-10-50, ~~39-10-51~~, 39-10-54.1, 39-21-08, 39-21-10, 39-21-11, or 39-21-14, or a violation of any municipal ordinance equivalent to the foregoing sections.
2. A violation, discovered at a time when the vehicle is not actually being operated, of section 39-21-03, 39-21-05, 39-21-13, 39-21-19, 39-21-32, 39-21-37, 39-21-39, or 39-21-44.2, or a violation of any municipal ordinance equivalent to the foregoing sections.

**SECTION 2. REPEAL.** Section 39-10-51 of the North Dakota Century Code is repealed."

Renumber accordingly

**2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1058**

Senate Transportation Committee

Subcommittee

Amendment LC# or Description: 19.0432.01001

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 Senator Patten    Seconded By Senator Bakke

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 \_\_\_\_\_

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

**2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1058**

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 Patten                            Seconded By Senator Bakke

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 Patten

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

**REPORT OF STANDING COMMITTEE**

**HB 1058: Transportation Committee (Sen. Rust, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1058 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 section 39-06.1-08 of the North Dakota Century Code, relating to nonmoving violations; and to repeal section 39-10-51 of the North Dakota Century Code, relating to unattended motor vehicles.

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

**SECTION 1. AMENDMENT.** Section 39-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-08. Nonmoving violation defined.**

For the purposes of section 39-06.1-06, a "nonmoving violation" means:

1. A violation of section 39-04-11, subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, subsection 4 of section 39-06-17, and section 39-06-44, 39-06-45, 39-10-47, 39-10-49, 39-10-50, ~~39-10-51~~, 39-10-54.1, 39-21-08, 39-21-10, 39-21-11, or 39-21-14, or a violation of any municipal ordinance equivalent to the foregoing sections.
2. A violation, discovered at a time when the vehicle is not actually being operated, of section 39-21-03, 39-21-05, 39-21-13, 39-21-19, 39-21-32, 39-21-37, 39-21-39, or 39-21-44.2, or a violation of any municipal ordinance equivalent to the foregoing sections.

**SECTION 2. REPEAL.** Section 39-10-51 of the North Dakota Century Code is repealed."

Renumber accordingly

**2019 TESTIMONY**

**HB 1058**

**Testimony: HB 1058**  
**Rep. Daniel Johnston (24)**  
**Senate Transportation Committee**  
**3/8/2019**

Mr. Chairman and Members of the Committee, my name is Daniel Johnston and I represent District 24 in the North Dakota House. Thank you for allowing me to be here today and testify on HB 1058.

Good Morning Mr. Chairman and members of the committee. My name is Daniel Johnston and I represent District 24 in the state house.

HB 1058 seeks to amend section 39-10-51 of the ND Century Code which requires the engine of a vehicle to be turned off if it is going to be left unattended.

Why should this part of the century code be repealed?

Simply put, the law goes against the will of the people, and as evidence, I point to the parking lot of my local grocery store during a cold winter day.

Is the law ineffective?

Yes, the citizenry of ND recognizes bad law and so, have largely ignored it.

Will the amount of people who leave their vehicle running while unattended increase if the law is changed? No, the law is not well known or publicized and even if it was, North Dakotans' don't care anyway. It is ineffective law.

What if we change it to exempt those vehicle owners that have a remote starter or something that allows the vehicle to remain locked while running unattended?

I think we might encounter some unintended constitutional ramifications. For instance, if a police officer checks to see if a running vehicle is locked, but cannot visibly tell, does the officer test the door and if it opens does that represent a constitutional violation. Also, while remote starters are more common today, they're still an expensive add-on that many cannot afford and so it would leave many of our citizenry exposed to a bad law.



What if a citation is issued by accident?

Now the defendant has to potentially lose wages to defend them themselves in court or pay the fine.

Lastly, should we further burden our already overworked law enforcement with nanny laws like this one?

No, we should free up our men and woman in blue, so they can do the important work we need them to do.

Thank you, members of the committee, for your time and consideration of HB 1058, please give this bill a Do Pass recommendation.

March 14, 2019

HB 1058  
3/14/19

#1  
pg 1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1058

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 39-06.1-08 of the North Dakota Century Code, relating to nonmoving violations; and to repeal section 39-10-51 of the North Dakota Century Code, relating to unattended motor vehicles.

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

**SECTION 1. AMENDMENT.** Section 39-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-08. Nonmoving violation defined.**

For the purposes of section 39-06.1-06, a "nonmoving violation" means:

1. A violation of section 39-04-11, subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, subsection 4 of section 39-06-17, and section 39-06-44, 39-06-45, 39-10-47, 39-10-49, 39-10-50, ~~39-10-51~~, 39-10-54.1, 39-21-08, 39-21-10, 39-21-11, or 39-21-14, or a violation of any municipal ordinance equivalent to the foregoing sections.
2. A violation, discovered at a time when the vehicle is not actually being operated, of section 39-21-03, 39-21-05, 39-21-13, 39-21-19, 39-21-32, 39-21-37, 39-21-39, or 39-21-44.2, or a violation of any municipal ordinance equivalent to the foregoing sections.

**SECTION 2. REPEAL.** Section 39-10-51 of the North Dakota Century Code is repealed."

Renumber accordingly