

**2021 HOUSE TRANSPORTATION**

**HB 1368**

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Transportation Committee**  
Room JW327E, State Capitol

HB 1368  
1/28/2021

A bill relating to tracking devices on motor vehicles; and to provide a penalty.
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11:05 **Chairman Ruby** opened the hearing.

Attendance:

Representatives	
Representative Dan Ruby	P
Representative Tom Kading	P
Representative Rick Becker	P
Representative Cole Christensen	P
Representative LaurieBeth Hager	P
Representative Jared C. Hagert	P
Representative Karla Rose Hanson	P
Representative Terry B. Jones	P
Representative Emily O'Brien	P
Representative Mark S. Owens	P
Representative Bob Paulson	P
Representative Gary Paur	P
Representative Robin Weisz	P
Representative Greg Westlind	P

## Discussion Topics:

- Notification of tracking devices on vehicles.
- Removal of tracking devices on vehicles.

**Representative O'Brien** introduction. Testimony # 4037, 4038 (amendment) and 4076.

**Matthew Larsgaard, MBA, Automobile Dealers Association of ND**, supportive testimony # 4083.

11:21 Chairman **Ruby** adjourned the hearing.

*Jeanette Cook, Committee Clerk*



# NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## **Representative Emily O'Brien**

District 42

5021 West Elm Court  
Grand Forks, North Dakota 58203

[eobrien@nd.gov](mailto:eobrien@nd.gov)

## **COMMITTEES:**

Industry, Business and Labor  
Transportation

4037

January 28, 2021

### **House Bill 1368 House Transportation Committee Representative Ruby, Chairman January 28, 2021**

Chairman Ruby and members of the House Transportation Committee:

My name is Emily O'Brien, from District 42, in Grand Forks, North Dakota.

I had a constituent reach out to me with some concerns. He purchased a vehicle for his 16-year-old daughter from a local used car sales lot. He brought the vehicle in to get some work done. The gentleman working on the car asked if he was aware that there was a GPS tracker installed in the vehicle. He explained that he was not aware that the GPS tracker was installed in the vehicle – and was not disclosed when he was purchasing the vehicle. When he went to the car sales lot, the individual that owns the lot had explained to him that yes, he did have a GPS tracker installed on the car and has them installed on all of the vehicles in his lot. The individual expressed that the way the North Dakota Century Code is written, they do not need to disclose that they have installed a GPS tracker on the vehicle. The owner of the car sales lot expressed that the reason for putting the GPS tracker on the car is that they sell cars to individuals sometimes with little to no credit, sometimes those individuals' default in payments. Having the GPS tracker allows the car salesman to repossess the car if the buyer were to default. Additionally, if the buyer pays the vehicle off – the GPS tracker would remain on the vehicle without the buyer's knowledge or consent.

House Bill 1368 is addressing these concerns by looking for a requirement that the individual selling the vehicle must provide disclosure to the buyer that there is a GPS tracker on the vehicle and that they will remove the GPS tracker once the vehicle has been paid off.

I have worked on some amendments with the Automobile Dealers Association of North Dakota to do some wordsmithing on this bill, which you have in front of you. See amendments 21.0852.01002.

I hope the committee will give HB 1368 a favorable consideration.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1368

Page 1, line 7, remove "As used in this section:"

Page 1, remove lines 8 through 11

Page 1, line 12, replace "2. After the sale of a motor vehicle, a dealer" with "A lender"

Page 1, line 12, after "not" insert "require a person to"

Page 1, line 12, replace "place" with "maintain"

Page 1, line 13, replace the first "the" with "a motor"

Page 1, line 15, replace "dealer" with "lender"

Page 1, line 15, replace "purchase" with "financing"

Page 1, line 20, remove "dealer's dealership at no"

Page 1, line 20, replace "to the buyer" with "of the lender"

Page 1, line 20, replace "or" with "and"

Page 1, line 21, replace "The expense of the dealer at a" with "A"

Page 1, line 21, replace the second "dealer" with "lender"

Page 2, line 1, replace "3." with "2."

Page 2, line 1, replace "dealer" with "lender"

Page 2, line 1, after "more" insert "than"

Page 2, line 2, replace "dealer" with "lender"

Renumber accordingly

Sixty-seventh  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1368

Introduced by

Representatives O'Brien, Westlund

Senators Kreun, Patten

1 A BILL for an Act to create and enact section 51-07-28.1 of the North Dakota Century Code,  
2 relating to tracking devices on motor vehicles; and to provide a penalty.

### 3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

4 **SECTION 1.** Section 51-07-28.1 of the North Dakota Century Code is created and enacted  
5 as follows:

#### 6 **51-07-28.1. Tracking devices on motor vehicles - Disclosure - Removal - Penalty.**

7 1. As used in this section:

8 ~~a. "Dealer" means a person licensed under chapter 39-22 to engage in the business~~  
9 ~~of buying, selling, leasing, or trading new or used motor vehicles.~~

10 ~~b. "Dealership" means the location from which a dealer buys, sells, leases, trades,~~  
11 ~~stores, or in any other manner deals in new or used motor vehicles.~~

12 ~~2. After the sale of a motor vehicle, a dealer~~A lender may not require a person to install  
13 or place/maintain a global tracking or positioning system or device on the/a motor  
14 vehicle for the purpose of locating or tracking the vehicle to repossess the vehicle in  
15 case of loan default, unless:

16 a. The ~~dealer~~lender includes within the ~~purchase~~financing contract, in a clear and  
17 conspicuous manner, information on the installation or placement of the system  
18 or device;

19 b. The system or device is installed at no cost to the buyer; and

20 c. The system or device is removed within sixty days of the loan for the motor  
21 vehicle being paid in full at:

22 (1) ~~The dealer's dealership at no expense to the buyer~~of the lender; or and

23 (2) ~~The expense of the dealer at a~~A location agreed upon by the ~~dealer~~lender  
24 and buyer.

- 1 | 3.2. A dealerlender that violates this section is subject to a fine of not more than five  
2 | hundred dollars. In the case of a second or subsequent violation of this section, the  
3 | dealerlender is subject to a fine of not less than one thousand dollars nor more than  
4 | two thousand dollars.

**House Bill 1368**  
**Testimony before House Transportation Committee**  
**Matthew C. Larsgaard, MBA**  
**Automobile Dealers Association of North Dakota**  
January 28, 2021

Mr. Chairman and members of the committee. My name is Matthew Larsgaard, and I am appearing in support of the amendments to HB 1368 on behalf of the Automobile Dealers Association of North Dakota.

The amendments help clarify who the responsible party is with respect to motor vehicle tracking devices. In some cases, that party is the dealership when a dealer facilitates a "buy here, pay here" sale. In most other cases, it is a traditional bank or lender. The amendment that replaces the word "dealer" with "lender" simply establishes that the responsible party is the same entity that is requiring the tracking device to be installed whether it is a lender, a dealer, or other third party.

The amendments also recognize that non-dealers may be involved in the installation of tracking devices. *(line 12)*

Finally, what if there is not a sale transaction involved? Although rare, it may be possible that an individual would like to extract equity out of the vehicle they currently own. The amendments address this issue as well. *(line 12)*

Thank you, Mr. Chairman, for the opportunity to testify.

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

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Transportation Committee Room JW327E, State Capitol

HB 1368  
2/4/2021

A bill relating to tracking devices on motor vehicles; and to provide a penalty.
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3:31 PM **Chairman Ruby** opened the meeting.

### Attendance

Representatives	
Representative Dan Ruby	P
Representative Tom Kading	P
Representative Rick Becker	P
Representative Cole Christensen	P
Representative LaurieBeth Hager	P
Representative Jared C. Hagert	P
Representative Karla Rose Hanson	P
Representative Terry B. Jones	P
Representative Emily O'Brien	P
Representative Mark S. Owens	P
Representative Bob Paulson	P
Representative Gary Paur	P
Representative Robin Weisz	P
Representative Greg Westlind	P

### Discussion Topics:

- GPS tracking devices.
- Tracking devices put on by lenders, dealers, or third party.

**Representative O'Brien** discussed changes to the amendments. (verbal)

**Representative O'Brien** moved the amendments. LC: 21.0852.01003 Title: 02000

**Representative Westlind** seconded.

Voice vote carried.

**Representative Westlind** moved as Do Pass as amended.

**Representative Weisz** seconded.

Roll call vote.

Representatives	Vote
Representative Dan Ruby	Y
Representative Tom Kading	Y
Representative Rick Becker	Y
Representative Cole Christensen	Y



Representative LaurieBeth Hager	Y
Representative Jared C. Hagert	Y
Representative Karla Rose Hanson	Y
Representative Terry B. Jones	Y
Representative Emily O'Brien	Y
Representative Mark S. Owens	A
Representative Bob Paulson	Y
Representative Gary Paur	Y
Representative Robin Weisz	Y
Representative Greg Westlind	Y

Motion Carried. 13-0-1

**Representative O'Brien** carrier.

3:39 Adjourned.

*Jeanette Cook, Committee Clerk*

DR 2/4/21  
10/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1368

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Page 1, line 20, remove "dealer's dealership at no"

Page 1, line 20, replace "to the buyer" with "of the seller or lender"

Page 1, line 20, replace "or" with "and"

Page 1, line 21, replace "The expense of the dealer at a" with "A"

Page 1, line 21, replace the second "dealer" with "seller or lender"

Page 2, line 1, replace "3." with "2."

Page 2, line 1, replace "dealer" with "lender"

Page 2, line 1, after "more" insert "than"

Page 2, line 2, replace "dealer" with "lender"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1368: 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 1368 was placed on the Sixth order on the calendar.

Page 1, line 7, remove "As used in this section:"

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Page 1, line 12, replace "2. After the sale of a motor vehicle, a dealer" with "A lender"

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Renumber accordingly

**2021 SENATE TRANSPORTATION**

**HB 1368**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Transportation Committee Fort Totten Room, State Capitol

HB 1368  
3/12/2021

A BILL for an Act to create and enact section 51-07-28.1 of the North Dakota Century Code, relating to tracking devices on motor vehicles; and to provide a penalty.

**Chair Clemens** calls the meeting to order. Present are Chair Clemens, Vice Chair Fors, Senators Bakke, Conley, Dwyer, D. Larsen. [10:00]

### Discussion Topics:

- GPS trackers on motor vehicles
- Subprime used car dealerships
- Financing contracts

**Representative Emily O'Brien [10:01]**, representing District 42, introduces the bill and submits testimony #8791 in favor.

**Matthew Larsgaard [10:14]**, on behalf of the Automobile Dealers Association of ND, testifies orally in favor

**Chair Clemens** adjourns the public hearing. [10:24]

**Chair Clemens** opens committee work on the bill. [10:24]

**David Wischer [10:24]**, legislative intern, presents research on the bill to the committee.

**Chair Clemens** adjourns the meeting. [10:28]

*Sheldon Wolf, Committee Clerk*



# NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360

## #8791



### Representative Emily O'Brien

District 42

5021 West Elm Court

Grand Forks, North Dakota 58203

[eobrien@nd.gov](mailto:eobrien@nd.gov)

### COMMITTEES:

Industry, Business and Labor  
Transportation

March 12, 2021

**House Bill 1368**  
**Senate Transportation Committee**  
**Senator Clemens, Chairman**  
**March 12, 2021**

Chairman Clemens and members of the Senate Transportation Committee:

I am Representative Emily O'Brien, from District 42, in Grand Forks, North Dakota.

House Bill 1398 was brought forward from a constituent – who purchased a vehicle from a subprime used car dealership.

To understand what this bill does – i am going to explain the scenario that got us to this legislation.

An individual who was looking to purchase a vehicle – went to a subprime used car dealership.

A subprime lender is often referred to as bad credit auto lenders, since their expertise is in financing borrowers with less than perfect credit. Subprime lenders are third party lenders, meaning the dealer works with the lenders to get the buyer financed.

The buyer found the vehicle they wanted to purchase - they admitted to the dealer that their credit was poor. After running a credit check – indeed the individuals' credit was poor. The subprime used car dealer considers these buyers a 'high risk sale'.

The dealer told the buyer that they were going to detail the car for, and they could pick it up the next day.

Fast forward.

The buyer who purchased the vehicle was then notified by a gentleman who was doing some work on the vehicle a few months later that there was a GPS tracker installed in the vehicle. The buyer did not install the GPS tracker themselves and was not aware that one was on her vehicle. She contacted local law enforcement to report a GPS tracker that was located on her vehicle. After contacting the manufacturing company of the GPS tracker – law enforcement was able to locate the purchaser of this specific GPS tracker – which brought them to the subprime used car dealership.

The individual that sold the vehicle to the buyer – expressed that they did have a GPS tracker installed on the vehicle and put a GPS tracker on every 'high risk sale'. These trackers only cost \$100. Once the vehicle is paid off he does not remove the GPS tracker because he figures \$100 is the cost of doing business. According to the individual or dealer– this is a very common occurrence in the subprime used car dealerships. The

individual was able to show law enforcement real time tracking of the GPS tracking devices that is installed on what they considered 'high risk sales'.

Currently, the way the North Dakota Century Code is written, they do not need to disclose that they have installed a GPS tracker on the vehicle.

The committee understood the intention that the subprime used car dealerships are trying to accomplish by placing a GPS tracker on the vehicles.

HB 1368 provides the disclosure of installing and maintaining a GPS system. The removal of the GPS system and the penalty if it is not disclosed or removed from the motor vehicle.

Thank you, Chairman Clemens and members of the Senate Transportation Committee. I will stand for any questions.

A handwritten signature in black ink, appearing to read "E. O'Brien", with a stylized flourish at the end.

Representative Emily O'Brien

District 42, Grand Forks

# 2021 SENATE STANDING COMMITTEE MINUTES

## Transportation Committee Fort Totten Room, State Capitol

HB 1368  
3/19/2021

A BILL for an Act to create and enact section 51-07-28.1 of the North Dakota Century Code, relating to tracking devices on motor vehicles; and to provide a penalty.

**Chair Clemens** calls the meeting to order. Present are Chair Clemens, Vice Chair Fors, Senators Bakke, Conley, Dwyer, D. Larsen. [10:43]

**Discussion Topics:**

- Tracking devices on motor vehicles

**Senator Bakke [10:44]** motions DO PASS.

**Senator Conley [10:44]** seconds.

Senators	Vote
Senator David Clemens	Y
Senator Robert Fors	Y
Senator Cole Conley	Y
Senator Michael Dwyer	Y
Senator Doug Larsen	Y
Senator JoNell Bakke	Y

Motion passes 6-0-0. [10:46]

**Senator Fors** will carry.

**Chair Clemens** adjourns the meeting. [10:46]

*Sheldon Wolf, Committee Clerk*



**REPORT OF STANDING COMMITTEE**

**HB 1368, as engrossed: Transportation Committee (Sen. Clemens, Chairman)**  
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1368 was placed on the Fourteenth order on the calendar.