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Deanna Hall  
Operator's Signature

10/2/03  
Date

2003 HOUSE TRANSPORTATION

HB 1238

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# 2003 HOUSE STANDING COMMITTEE MINUTES

## BILL/RESOLUTION NO. HB 1238

House Transportation Committee

☐ Conference Committee

Hearing Date January 23, 2003

Tape Number	Side A	Side B	Meter #
1	x		8.8 to 23.3
1		x	5.5 to 7.4
Committee Clerk Signature <i>Lauren B. Fiske</i>			

Minute:

Rep. Weisz, Chairman opened the hearing on HB 1238, a bill for an Act to amend and reenact subsection 1 of section 39-08-20 of the North Dakota Century Code, relating to driving without liability insurance.

Rep. Mueller representing District 24, parts of Barnes county and parts of Ransom County. He appeared to briefly introduce HB 1238. It involves the timing of the effective time of liability coverage. A loop hole in North Dakota which allows a motorist to obtain liability insurance coverage after being cited for driving without liability coverage. It is not uncommon throughout North Dakota for a motorist to be stopped for driving without insurance coverage at some time during the business day. After being cited he goes to an insurance agency obtains coverage and as soon as the policy is written the effective time date is back to 12:01 AM that day. Thus it appears when he makes his court appearance that he had insurance coverage at the time of his being cited. This can also be accomplished today by going on line to by a policy. The effect is

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Bill/Resolution Number HB 1238  
Hearing Date January 23, 2003

the same because some years back the insurance industry adopted for good reasons an uniform effective or starting time for coverage for the industry.

Rep. Ruby: ( 11.7 ) Would this require the insurance agents to do anything differently inasmuch of the standardized effective time?

Rep. Mueller: I don't think it would change the 12:01 time, what it would do is to require the motorist to have that insurance at the time of the citation and the burden of proof is on the motorist.

Rep. Ruby: How is they are going to prove that?

Rep. Mueller: The bill does require that but as to how they would is going to have to be answered by those who will testify after me. I defer to them.

Brad Croft ( sp ? ) I am city attorney for the City Attorney and the prosecutor for the City of Valley City who prosecuted the case Rep. Mueller referenced. When the young lady came into court and showed her proof of insurance effective 12:01 AM the day of her citation the judge threw her case out finding her not guilty of the offense. I am not that acquainted with these on line insurances. I am in support of doing some to correct this situation. Instead of placing the burden onto the arresting officer to tracked down proof this bill would snift the proof onto the driver.

Kent Olson representing the North Dakota Insurance Agents Association explained a bit the standardization of the 12:01 time. There is usually an accident involve which brings this question and then the penalty for driving without insurance follows. The standardized time is referred to the old New York fire insurance coverage time. Most states have adopted it for insurance policies. However, most auto insurers will have a time and date of signing on their

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policies. There is a definite time. On most policies this true but I can't tell what they do on the internet. We stand in support of the bill.

Rep. Zaiser: ( 16.4 ) Is it a violation if you don't carry evidence of insurance coverage?

Kent Olson: The DOT has people here to answer that question but I believe if you have coverage and don't have your and with you, you have 20 days. If you don't produce the card it is then a \$20 fine.

Chad Hagen: (17.3 ) President of the North Dakota Fraternal Order of Police and a police officer for the past 10 years. He works for the Fargo Police Department and this comes up regularly. He and his organization support this legislation.

Rep. Weiler: What per cent of the drivers do not have insurance?

Chad Hagen: We have our own data but the DOT will have to give the statewide information.

Rep. Thorpe: Please clarify for me and the committee, you said they come in with a back dated coverage --- how can that occur?

Chad Hagen: Basically restated the previous testimony of a cited driver going to an agent after the accident and he added two instances where in 1 case the driver went to a 1 - 800 24 hour service number and purchased his coverage after 6:00 PM and the second got his on the internet. They had actually told the officers that they had no insurance at the time of the crash. Those violations were thrown out in our courts.

Liz Heinert: She is the manager for the Driver Improvement Services for the Drivers License Division of the DOT. The DOT will say the 4% of the drivers are uninsured and that is base on accident records but the industry will tell its more like 9 - 12%.

Pat Ward: He represents the State Farm Insurance companies. They support passage of this bill.

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Hearing Date January 23, 2003

It is a clean bill and should clear up a lot of things in this area.

Rep. Delmore: ( 22.3 ) Do the people who sell insurance like that do they pay?

Pat Ward: If you mean those who time their policies back to 12:01 AM , yes they do. If they can prove that they don't have pay they will not. At least they will try. Not sure of the internet companies --- ?

There being no further testimony for or against HB 1238, Rep. Weisz, Chairman closed the hearing. ( 23.3 )

Tape 1 Side b Committee action ( 5.5 ) Rep. Delmore moved a "Do Pass" motion. Rep. Weiler seconded the motion. On a roll call vote the motion carried 12 ayes o Nays 1 absent and not voting. Rep. Headland was designated to carry HB 1238 on the floor.

End ( 7.4 )

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1/21/03  
Date

Date: 1/23/03  
Roll Call Vote #: \_\_\_\_\_

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1238

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30336.0100

Action Taken DO Pass

Motion Made By Rep. Delmore Seconded By Rep. Weiler

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	✓		Lois Delmore	✓	
Kathy Hawken - Vice Chairman	✓		Arlo E. Schmidt	✓	
LeRoy G. Bernstein	✓		Elwood Thorpe	✓	
Mark A. Dosch	✓		Steven L. Zaiser	✓	
Pat Galvin	✓				
Craig Headland	✓				
Clara Sue Price	✓				
Dan J. Ruby	✓				
Dave Weiler	✓				

Total Yes 12 No 0

Absent 1

Floor Assignment Rep. Headland

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

**REPORT OF STANDING COMMITTEE (410)**  
January 23, 2003 12:33 p.m.

Module No: HR-13-0963  
Carrier: Headland  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
**HB 1238: Transportation Committee (Rep. Welaz, Chairman) recommends DO PASS**  
**(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1238 was placed on the**  
**Eleventh order on the calendar.**

(2) DESK, (3) COMM

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HR-13-0963

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10/2/03  
Date



2003 SENATE TRANSPORTATION

HB 1238

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10/2/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1238

Senate Transportation Committee

☐ Conference Committee

Hearing Date 3-14-03

Tape Number	Side A	Side B	Meter #
1		X	4780-end
2	X		0-440
Committee Clerk Signature <i>Mary K Monson</i>			

Minutes:

**Chairman Senator Thomas Trenbeath** opened the hearing on HB 1238 relating to driving without liability insurance.

**Representative Phil Mueller** (District 24) This bill deals with automobile liability insurance and the timing of the acquisition of that liability insurance. It was brought to light because of a loophole in the ND law that allows a motorist to obtain an auto liability insurance policy after being cited for an offense and avoid prosecution. Due to the ND law that provides for a 12:01 am effective time for insurance policies, someone can be cited for a violation, go buy an insurance policy, and not be convicted for driving without liability insurance.

**Senator Trenbeath** stated that it seemed the wording "in obligating the driver to prove the time he acquired coverage" was requiring an accused to prove himself innocent. Was concerned from a constitutional aspect. Asked if that was discussed in the House.

**Rep. Mueller** said that issue did not come up. There were questions about the timing issue.

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*10/2/03*  
Date

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Senate Transportation Committee

Bill/Resolution Number HB 1238

Hearing Date 3-14-03

**Senator Espegard** asked, if a person had an accident and was liable and was arrested for not having liability insurance, if he could go back and get liability insurance as of 12:01 of that day.

**Rep. Mueller** responded, that as he reads the law as it currently stands, yes.

**Kent Olson** (Director of the Professional Insurance Agents of ND) (Meter 5700) Talked about the history of using the 12:01 effective date to make it a uniformity with all companies. The problem is the citation for driving without insurance. The driver could, after receiving a citation for a violation, obtain insurance for his vehicle on that same day. The question then would be if the insurance coverage was bound before or after the violation. Feels that this bill is clarification.

**Senator Trenbeath** asked how a person proves the time of day he purchases his policy.

**Kent Olson** responded that the application will usually have a binding time.

**Tape 2, Side 1**

**Kent Olson** talked about the effective date of policies. (Meter 25) Homeowner policies actually state the 12:01 effective coverage time. On auto and casualty policies the time of effectiveness is by when the agent bound coverage. The application becomes a key on automobile insurance.

**Senator Espegard** asked what the bill was for.

**Kent Olson** said the bill was to correct a problem in the DOT. It is not an insurance issue.

Feels the citations is where the problem is.

The hearing on HB 1238 was closed.

**Senator Nething** moved a **Do Pass**. Seconded by **Senator Espegard**.

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Date

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Senate Transportation Committee  
Bill/Resolution Number HB 1238  
Hearing Date 3-14-03

Sgt. Jim Hughes offered additional information that if a person is stopped and cited for driving without liability insurance they can bring their card in and the charges will be dropped. Felt one of the problems is that there are people who don't buy liability insurance until they have to.

Senator Trenbeath said he wasn't sure this bill was a constitutional cure for the problem.

Senator Nething said that it doesn't even come into question if the owner/driver of the car has the card with him.

The motion was left pending.

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*Dorinda Hall*  
Operator's Signature

10/2/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1238

Senate Transportation Committee

☐ Conference Committee

Hearing Date 3-20-03

Tape Number	Side A	Side B	Meter #
2		X	470-1015
Committee Clerk Signature <i>Mary K. Monson</i>			

Minutes:

Chairman Senator Thomas Trenbeath opened HB 1238 for discussion.

The committee discussed HB 1238. It makes a person prove what time of day he bought the liability insurance policy. There was some concern about fraud.

Roll call vote on the pending Do Pass motion. 2-3-1. Failed.

Discussion clarified that "if the time of acquisition of policy comes under question, the driver or owner has the burden of establishing the time of acquisition." Insurance is required by law. If a person is stopped for speeding and, in the course of discussion, it is determined that he does not have insurance, the burden is shifted back to that person to show proof of his insurance.

Senator Espgaard moved a Do Pass. Seconded by Senator Taylor. Roll call vote 5-0-1.

Passed. Floor carrier is Senator Nething.

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*Donna Baller*  
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*10/2/03*  
Date

Date: 3-20-03  
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1238

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken No pass

Motion Made By Senator Nothing Seconded By Senator Espigard

Senators	Yes	No	Senators	Yes	No
Senator Thomas Trenbeath, Chair		✓	Senator Dennis Bercier		
Senator Duaine Espigard, V. Chair		✓	Senator Ryan Taylor	✓	
Senator Duane Mutch		✓			
Senator Dave Nothing	✓				

Total (Yes) 2 No 3

Absent 1

Floor Assignment Senator

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

*failed*

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Operator's Signature Dorena Hallmark

10/2/03  
Date

Date: 3-28-03  
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1238

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do pass

Motion Made By Senator Espgaard Seconded By Senator Taylor

Senators	Yes	No	Senators	Yes	No
Senator Thomas Trenbeath, Chair	✓		Senator Dennis Bercier		
Senator Duaine Espgaard, V. Chair	✓		Senator Ryan Taylor	✓	
Senator Duane Mutch	✓				
Senator Dave Nething	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Nething

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

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Dennis Bercier  
Operator's Signature

10/2/03  
Date

**REPORT OF STANDING COMMITTEE (410)**  
March 21, 2003 1:04 p.m.

Module No: SR-51-5445  
Carrier: Nothing  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
HB 1238: Transportation Committee (Sen. Trenbeath, Chairman) recommends **DO PASS**  
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1238 was placed on the  
Fourteenth order on the calendar.

(2) DESK, (3) COMM

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SR-51-5445

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