

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1322

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Deanna Hallmark  
Operator's Signature

10/3/03  
Date

2003 HOUSE TRANSPORTATION

HB 1322

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1322

House Transportation Committee

☐ Conference Committee

Hearing Date January 23, 2003

Tape Number	Side A	Side B	Meter #
1		x	37.7 to end
2	x		0.1 to 21.3
Committee Clerk Signature <i>Lauren B. Fink</i>			

Minutes:

Rep. Weisz, Chairman opened the hearing on HB 1322, a bill for an Act to amend and reenact subsection 12 of section 39-06.1-06 of the North Dakota Century Code, relating to the fees for a violation of a highway construction zone speed limit.

Rep. Weiler representing District 30 in Bismarck spoke for HB 1322 as prime sponsor. He noted the key words in this legislation were "and place" on line 21. A copy of his written testimony is attached.

Rep. Headland: How is the vehicle operator going to know -- is this going to take additional signage?

Rep. Weiler: In the bill itself I believe it says there must be proper signage. Also you are going to be able to see people as you drive up to that work place.

Rep. Ruby: ( 43.1 ) Is that zone where it will be 80 -- does that also include --if somebody is working in the ditch? Working on equipment or is that for people standing there flagging?

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House Transportation Committee  
Bill/Resolution Number HB 1322  
Hearing Date January 23, 2003

Rep. Weiser: The bill doesn't address that specifically; however, if there are people present , people do need to slow down.

Mark Dougherty , Membership Services Director for the Associated General Contractors of North Dakota spoke in support of HB 1322. A copy of his prepared remarks are attached.

Rep. Delmore: ( 48.1 ) I have traveled all over the United States and I have wondered why do we have so many miles of marked as construction when there is so little work going on in one limited area?

Mark Dougherty: I am not sure I can answer that. Possibly Grant Levi here from the DOT can answer that. We don't have lot of input how they setup the length of the project.

Rep. Delmore: I don't have a problem at all when there are workers there but when we have all of those open miles where nothing is going on.

Rep. Thorpe: What is your answer as to how your construction people will handle this variance from 40 to 80? How is that going to be posted?

Mark Dougherty: As the legislation says -- yes it has to be posted. I assume that would go up where the work is taking place. It shouldn't be too hard for the public to tell.

Rep. Ruby: Say there is some culvert work be done with equipment in the ditch - - is the sign going to be put up for \$80?

**End of tape -- go Tape 2 Side A**

Mark Dougherty: I guess I would have to do some research on that -- if there was but one piece of equipment working there of the roadway -- I would say that would be a \$40 fine.

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House Transportation Committee

Bill/Resolution Number HB 1322

Hearing Date January 23, 2003

Rep. Galvin: I would like to see it enforced -- most of the time you are driving on a single lane road with work on both sides -- how does a Patrolman get in there to enforce this? I never see anybody enforcing these laws?

Mark Dougherty: ( 1.3 ) I guess I have seen them out there -- mostly on the Interstate because that is the highway I travel the most. I don't have the numbers but there has been a considerable number of speeding fines in these areas. In the Valley City District -- the Patrolman do very excellent job enforcing those laws. ON the two lane roads -- I understand it is harder for them but they have the radar guns -- they just have to wait until they are through the work zone before they can pull them over.

Grant Levi: Director for Engineering, ND DOT -- a copy of his prepared written remarks are attached.

Rep. Weisz: It is very clear what this legislation deals with but when you have your employees out there doing crack filling on you roads -- there is not minimum or anything posted -- people have to go around -- is there any law that relates to that?

Grant Levi: With respect to our maintenance activities the signing is different than for construction. It is typically a shorter duration -- we do not post at this time for maximum or minimum -- I don't believe there is any state statute would increase the fees for not slowing down .

Rep. Delmore: Can you answer may question why you block off twenty miles to do fifty feet of work?

Grant Levi: We have various construction project the occur throughout the construction season --- on occasions we do come in and review or mark off traffic control for project for 10 to 15

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House Transportation Committee  
Bill/Resolution Number HB 1322  
Hearing Date January 23, 2003

miles in length -- we decide on what length of roadway we put up the traffic control for based on the type of work -- really the efficiencies that a contractor can provide in that construction zone -- for example on a seal coat project such as those similar to what occurred on the Interstate 94 this past summer -- we did sign for a construction zone of about 15 to 20 miles -- when the contractor does come in it does take a period of time for them to put the signing in place to protect the traveling public where the work is actually occurring -- the contract comes in and he can seal as much as seven miles of roadway a day -- really the length of the work zone depends on the type of work and the efficiency that a contractor can bring when he negotiates a contract.

Rep. Delmore: Do you have a copy of that policy that the committee could see -- because I think there are a number of people who think that shortening those zones will make people show done -- more than are doing so now?

Grant Levi: We don't have a written policy per se -- that is the way we make that approach -- to try and balance out the efficiency -- we do have standards that we use for various projects whether it be a concrete project or an interstate -- I could share those standards with you.

Rep. Delmore: If we pass this bill -- who is responsible for the design speed and how often will they have to be moved -- I assume they are going to have to be more mobile --- because that work is going to have to be signed -- who is going to responsible for that and is there going to be an added cost?

Grant Levi: The responsibility for the signing is really the responsibility of the contract as a result of the bidding the provisions we put into the contract -- each of our construction contracts we put in the signing provisions the contractor must adhere to -- to comply with the contract requirements -- so we will as an agency if the bill were to pass change our specifications and

Deanna Hall Smith  
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require different signing and the contractor will be responsible for placing that and we will monitor that --- Mr. Chairman I have not seen a copy of the proposed amendment -- the was brought forward when the bill was introduced -- I would offer that at least on -- Note: he was furnished a copy which he studied -- in listening to the discussion I will share with the committee how the present state statute is applied on a construction project. that occurs on the present contracts that we have -- is that the forty fee applies only when there are individuals working in the area -- if you travel through a construction zone and there is no one working in that zone or in that area of the zone -- they are -- the fee is not forty dollars -- since we haven't seen the proposed amendments we didn't understand that you were proposing two different fee in the work zones -- one fee for the whole zone and another where men were working. I would offer to the committee that would create some challenges.

Rep. Thorpe: As the discussion continues -- I think the intent of this legislation is becoming more clear to me -- the intent was the same but the fee would be \$80 in the area where men are working -- is that right?

Grant Levi: Yes I believe so. The state statute is written so the there must be men working in the area. We believe the present law as it is applied there must be construction activity in the area before the law applies --not in the rest of the zone. To answer the previous question -- the work must be on top of the roadway.

Mark Nelson: Field Operations Officer -- North Dakota Highway Patrol -- he appeared in support of this legislation . During the past two years -- in excess of 2000 citations issued for speeding and well over a 1000 warning issued. The average speed we -- we issued citation for were -- in 25 mile an hour zone -- was 50.5 mph; in a 35 mile an hour zone - - the average speed

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Bill/Resolution Number HB 1322  
Hearing Date January 23, 2003

was 50.4 mph ; in a 40 mph zone -- the average speed was 56.1 mph. Safety is a huge issue with us and we take it seriously. Typically it is a 15 to 20 mph variance.

Rep. Ruby: Would this increase the liability of the construction company and their employees if we pass this and if an employee were killed on the roadway surface when they didn't get the signage out ?

Mark Dougherty: All the contractors carry liability insurance for their employees.

Rep. Delmore: About enforcement when there is no work going on -- if I am going 70, the legal limit and I come to the 60 where I need to slow down -- and it gets to the 40 drop off -- then to 25 and there is no construction going on -- do I still need to slow down to that speed ?

Mark Nelson: If it is sign as a regulatory speed the answer is yes like any other roadway -- if the regulatory speed marked a 60 mile an hour speed -- then you must slow down to 60. However if workers are not present -- then the regular speed zone speed apply not the 40 minimum because the workers are not present.

Rep. Dosch: Would you define what you mean by 'present speed' -- does that mean within 10 feet or within 10 miles?

Mark Nelson: Obviously there is some discretion left to the officers in enforcing within the construction zone -- we do look to see there is people in the immediate area-- if there is no one within eyesight then there is no citation. I would say within a quarter of a mile -- you need that to achieve the right speed.

Rep. Weiler: Would you clarify one thing for me -- you said that at the start of the construction zone and at the end and there is one mile where there are workers -- if you are not in that one mile area you are speeding -- you said the signs are not applicable?

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Bill/Resolution Number HB 1322  
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Mark Nelson: ( 17.5 ) there is correct -- if there are two elements necessary -- there must be workers present and it must be signed a minimum fee of \$40 .

Rep. Weiler: I understand that -- but you said it would be back to twenty if there was nobody present.

Mark Nelson: For example -- if the speed limit is 70 mph and it was posted for 60 mph and no workers were present it would go back to citing them to what we would cite for going 70 in a 60 mph zone any other place. It would not apply to the construction zone.

Rep. Weiler: It does but maybe we are going to have to take a look at this.

Rep. Thorpe: I am certainly in support of anything we do for safety of the workers out there but let's say the contractor is marking off a 4 mile section of road -- the says ' Next 4 miles under construction'. If I am that contractor right now and I would put \$80 dollars in there just to protect my workers. If I am driving through there and traffic is moving along at 60 mph and its marked at 40 -- I am going to get an \$80 fix then --

Mark Nelson: If the workers are present -- yes. If the workers are not in the immediate area there is no \$80 citation.

there being no other persons wishing to testify for or against HB 1332, Chairman Weisz closed the hearing.

End of hearing record ( 21.3 )

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1322 b

House Transportation Committee

☐ Conference Committee

Hearing Date January 23, 2003

Tape Number	Side A	Side B	Meter #
2	x		0.1 to 11.6
Committee Clerk Signature <i>Samuel B. Fink</i>			

Minutes:

Rep. Weisz opened the discussion for action on HB 1322. The use of two levels of fines within construction zones was felt to be confusing. It was determined that Rep. Weilers bill does not change anything except the \$40 goes to \$80 if everything is enforced as the present \$40 fee is enforced now.

Rep. Weiler: Moved a 'Do Pass' for HB 1322. Rep. Dosch: seconded the motion. On a roll call vote the motion carried 7 Ayes 5 Nays 1 Absent and not voting.

Rep. Hawken was designated to carry HB 1322 on the floor.

End of record. ( 11.6 )

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**FISCAL NOTE**  
Requested by Legislative Council  
01/14/2003

Bill/Resolution No.: HB 1322

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
					\$59,257			\$59,257

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would double the fine for speeding in a construction zone. Since an increase in penalties should function as a deterrent to speeding by some motorists, we expect to see a decrease in speeding incidents through construction zones which would partially offset an increase in revenue resulting from the increased fines. We have no way of accurately determining the exact impact of this bill. However, we based an estimate on the assumption that this bill would result in an increase of 60% in the dollar amount of total fines assessed for speeding in a construction zone. This pertains only to speeding violations in construction zones on the state highway system. We are unable to determine the extent that this bill may impact speeding violations occurring on city and county roads.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The ND Highway Patrol issued 2,185 citations for speeding in construction zones in 2001 and 2002 for a total of \$98,761 in revenue. Assuming a 60% increase in the dollar amount of total fines assessed for speeding in a construction, this bill would result in an increase in revenue totaling \$59,257 each biennium.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

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Name:	Shannon Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	01/22/2003

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10/3/03  
Date

30549.0101  
Title.

Prepared by the Legislative Council staff for  
Representative Weller  
January 15, 2003

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1322

Page 1, line 8, remove the overstrike over "~~of a highway construction zone speed limit under subsection 2 of~~"

Page 1, line 9, remove the overstrike over "~~section 39-09-02,~~"

Page 1, line 15, remove "For a violation of a highway construction zone speed limit under subsection 2 of"

Page 1, remove lines 16 through 18

Page 1, line 19, remove "section.", overstrike "The", remove "fee", overstrike "in this subsection", remove "does", and overstrike "not apply to" and insert immediately thereafter "For violation of"

Page 1, line 20, overstrike "unless" and insert immediately thereafter "speed limit under subsection 2 of section 39-09-02 in which"

Page 1, line 22, after the quotation mark insert "a fee of eighty dollars for one through ten miles per hour over the posted limit; and eighty dollars plus two dollars for each mile per hour over ten miles per hour over the limit, unless a greater fee would be applicable under this section"

Renumber accordingly

Page No. 1

30549.0101

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Date: 1/24/03  
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1322

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30549.0100

Action Taken Do Pass

Motion Made By Rep. Weiler Seconded By Rep.

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

Total Yes 7 No 5

Absent 1

Floor Assignment Rep. Hanken

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

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10/3/03  
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**REPORT OF STANDING COMMITTEE (410)**  
January 24, 2003 2:57 p.m.

Module No: HR-14-1081  
Carrier: Hawken  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
**HB 1322: Transportation Committee (Rep. Welsz, Chairman) recommends DO PASS**  
(7 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1322 was placed on the  
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-14-1081

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*10/3/03*  
Date

2003 SENATE TRANSPORTATION

HB 1322

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10/3/03  
Date



2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1322

Senate Transportation Committee

☐ Conference Committee

Hearing Date 2-28-03

Tape Number	Side A	Side B	Meter #
1	X		5845-end
1		X	0-1335
Committee Clerk Signature <i>Mary K Monson</i>			

Minutes:

**Chairman Senator Thomas Trenbeath** opened the hearing on HB 1322 relating to the fees for a violation of a highway construction zone speed limit.

**Representative Dave Weiler** (District 30) See attached testimony in support of HB 1322.

Currently there is a \$40 fine for speeding inside a construction zone. This bill would double that fine to \$80 if workers are present at the time and place of speeding.

**Senator Dick Dever** (District 32) Supports HB 1322.

**Curt Peterson** (Associated General Contractors of ND) HB 1322 is an attempt to get the message across to the motoring public that the workers are real people and it is pretty nerve wracking when cars are whizzing by.

**Senator Nething** asked what fines are in other states.

**Curt Peterson** responded that, in some states, fines for speeding through a work zone where there are people can run \$1000 or \$2000.

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Operator's Signature

*10/3/03*  
Date

Page 2  
Senate Transportation Committee  
Bill/Resolution Number HB 1322  
Hearing Date 2-28-03

**Senator Bercier** asked about radar detectors in work zones and wondered if there was a movement toward having more of them.

**Curt Peterson** responded that in heavier traffic areas in ND radar readouts are put up and according to law enforcement it is very effective. It is a good reminder.

**Mark Nelson** (ND Highway Patrol) Testified in support of HB 1322. See attached testimony.

**Senator Espegard** asked if there are construction zones at 70 mph.

**Mark Nelson** responded that there are areas that have a 70 mph in the preceding area or towards the end of the construction area that might still be posted as a construction zone site but not posted as the minimum fee.

**Grant Levi** (Deputy Director of Engineering ND DOT) The DOT supports HB 1322 for the safety of both the construction workers and the public.

The hearing on HB 1322 was closed

**Senator Espegard** moved a **Do Pass** and refer to appropriations.

Seconded by **Senator Bercier**. Roll call vote 6-0-0. **Passed**. Floor carrier is **Senator Espegard**.

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10/3/03  
Date

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

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1322

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

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

Action Taken Do pass and refer to appropriation

Motion Made By Senator Espgaard Seconded By Senator Bercier

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) 6 No 0

Absent 0

Floor Assignment Senator Espgaard

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Dennis Bercier  
Operator's Signature

10/3/03  
Date

**REPORT OF STANDING COMMITTEE (410)**  
February 28, 2003 1:12 p.m.

Module No: SR-36-3679  
Carrier: Espegard  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1322: Transportation Committee (Sen. Trenbeath, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1322 was rereferred to the Appropriations Committee.**

(2) DESK, (3) COMM

Page No. 1

SR-36-3679

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*Dennis Hall*  
erator's Signature

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2003 SENATE APPROPRIATIONS

HB 1322

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1322 & Vote

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 3-13-03

Tape Number	Side A	Side B	Meter #
1		X	4033-end
2	X		0-1971
Committee Clerk Signature <i>Sandra Dawson</i>			

Minutes: CHAIRMAN HOLMBERG opened the hearing to HB 1322. A bill relating to the fee for the violation of a highway construction zone speed limit.

(Meter 4033) REPRESENTATIVE DAVE WEILER sponsor of the bill testified. See written testimony Exhibit 1.

(Meter 4459) SENATOR GRINDBERG wanted clarification and gave an example of if he would drive to Beach or Medora on a Sunday morning and there are no workers around and he does slow down in that construction zone because no one is around and return on Monday and there are workers around, what would be the difference? Why wouldn't there be a across the board no matter what? If you are picked up in a construction zone, you would get a ticket no matter what.

(Meter 4565) REPRESENTATIVE DAVE WEILER replied that he thinks the really problem is that people are not slowing down when there are construction workers present. You are putting construction workers lives in danger if they are out there working on the road and you are driving by doing 85 mph. If you are driving through at 85 mph and there are no construction workers

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Operator's Signature

*10/3/03*  
Date

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Senate Appropriations Committee  
Bill/Resolution Number HB 1322  
Hearing Date 3-13-03

around you are not putting any workers in danger. (Meter 4651) SENATOR GRINDBERG repeatedly asked why they wouldn't want it to be absolute? The point is sometimes a person can get away if you know about law on the weekends?

(Meter 4660) REPRESENTATIVE DAVE WEILER stated he felt on the law that was passed, there was some confusion as to what the law actually did. There were some people in the House that believe that if you were caught in a construction zone, it was a \$40 fine. That is what the law currently states. The Highway patrol only tagged people with a \$40 fine if people were present at the time of the infraction. If you were inside of the construction they were just handing out a normal speeding ticket, some of the House members believed the law was written that if you were inside of the construction zone, it's a \$40 ticket no matter if people are present or not. The Highway Patrol was not reading it as such.

(Meter 4665) SENATOR BOWMAN stated that the fine is after the fact, the person is already injured. Stated he travels a lot and goes through these zones. What is the fine for someone who hits someone, that's the person would needs to punished. Is there going to signage out to double the fine and double the costs. Does it currently states that the fine is double in construction zones? (Meter 5007) REPRESENTATIVE DAVE WEILER state he wanted to defer the placeage of the signs to the DOT and when they are moved. He was agreeable with SENATOR BOWMAN about after the fact.

(Meter 5163) SENATOR KILZER asked about line 21, it is adding "and place", how distant or close do the workers have to be? Then gave examples of many miles of construction and there is then only 1 worker is in a small area, what are the dimensions of a place? (Meter 5274)

REPRESENTATIVE DAVE WEILER agreed that was a good question and studied that in the

*Donna Hall*  
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House Transportation in detail, the reason it was added was to add definitely that there needs to be workers actually present. Deferred explanation of "and place" to the DOT.

(Meter 5375) SENATOR ROBINSON stated that he feels this is a policy issue. He feels that it should be all or none as SENATOR GRINDBERG stated earlier. (Meter 5591)

REPRESENTATIVE DAVE WEILER referred back to how last session they Highway Patrol did not tag unless there were workers present. The main issue is the way the law is written and how the Highway Patrol interpreted the law.

(Meter 5768) SENATOR ROBINSON stated the confusion of the translation and interpretation and enforcement of the legislation of what the \$40 fee fine. If we go to \$80 the Highway Patrol needs to be clear about the law.

(Meter 5963) SENATOR THANE stated he has no problem with the bill but the clarification need to be established. There is no workers present, there is a speed limit sign there that should be obeyed. The Highway Patrol should be enforcing but not with an extreme penalty with workers present. He gave an example of driving at midnight with no workers present. You are still violating a speed limit zone? There will not be a \$2 over the limit fee, just an \$80 fine, correct? (Meter 6220) REPRESENTATIVE DAVE WEILER again stated that is why this bill needs to explain exactly what this bill does.

**Tape 2 Side A**

(Meter 24) SENATOR BOWMAN asked if we were comparable to our neighboring states?

(Meter 30) REPRESENTATIVE DAVE WEILER deferred that to Curt Peterson from General Contractors to answer that.

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(Meter 56) SENATOR BOWMAN asked about the three accidents that killed workers, was speeding the primary reason or something else? (Meter 68) REPRESENTATIVE DAVE WEILER stated that the three people killed were inside of the construction zone but was unsure of the details.

(Meter 86) SENATOR LINDAAS stated in the term "workers present in the zone" but it also gets down to the enforcement also and highway patrol presents. He stated that very seldom does he see a Highway Patrol sitting in a construction zone area. He was wondering if anyone has suggested camera enforcement measures? (Meter 148) REPRESENTATIVE DAVE WEILER felt that the enforcement part is not the problem. He didn't feel we could put one of these at every construction site unless the Senate Appropriations chooses to do so but feels it would be spendy.

(Meter 227) SENATOR ANDRIST felt he needed a better clarification and stated sometimes it is weeks and months before these signs are put or taken down. He doesn't want these areas converted to speed traps. (Meter 299) REPRESENTATIVE DAVE WEILER stated that was one of the areas that was of concerns about the length of a construction zone area.

(Meter 315) SENATOR ROBINSON asked for a comment from the chair about this particular issue, are they going to get into contents on this issue? Should this be rereferred back to Transportation? (Meter 330) CHAIRMAN HOLMBERG stated that the sponsor of the bill feels there needs to be clarification of the bill.

(Meter 364) SENATOR THANE stated that this bill has been through three committees already and they have passed it - House Transportation, House Appropriations, Senate Transportation and now Senate Appropriations, he is surprised that the bill has not been amended. He can not

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believe that someone did not pick up on it before it got to Senate Appropriations. (Meter 407)

REPRESENTATIVE DAVE WEILER clarified this did not go to the House Appropriations, why he did not know and it hasn't been amended because it was so perfectly drafted. He believes the clarification issue only needs to be the Highway Patrol, the State Legislature and the public are all on the same page.

(Meter 456) SENATOR CHRISTMANN asked about the speed limit signs and sign regulations and gave some examples. He does not believe that the speed limit signs are enforceable for construction depending on how far they are away from the actual construction zone, if they are the white signs, regardless if someone is working there or not. He believes that the subcommittee should meet with the Highway Patrol and work out some of these details.

(Meter 590) GRANT LEVI, Deputy Director of the DOT testified in favor of this bill. See written testimony Exhibit 2.

(Meter 731) SENATOR ROBINSON asked GRANT LEVI in conjunction with the other bill that increases the speed zone on the interstate. On references from sponsor and him, there is going to have to be a tremendous act of partnership between DOT, Highway Patrol and the motoring public. Is there something that the DOT could be doing for a better job? Regarding the long stretches of construction that go inactive for sometimes a matter of weeks. He stated how frustrating it is to the motoring public when the orange construction cones are out for weeks and no active of construction. That creates a problem for this type of legislation, could there be some sort of reconstructing of these problems? (Meter 861) GRANT LEVI stated his department is well aware of publics' concern as they travel through the construction work zones that appear to

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have no activity occurring and are challenged in that area as the mission of his department is safety for the traveling public. There needs to be a balance with limited resources.

(Meter 1130) CURT PETERSON, Association of General Contractors of ND and asked for this legislation to be drafted. He stated his bill mirrors 20 other states and gave example of stiffer fines and even jail time on other states. He also explained the perspective of the worker on the road when car are whizzing by at 60 mph.

(Meter 1298) CHAIRMAN HOLMBERG asked Curt Peterson if there was any discussion with the Highway Patrol regarding the issue of how they were treating the law as it was passed last time? (Meter 1329) CURT PETERSON explained that they had talked to the Highway Patrol prior to the session and they did testify in the Transportation House committee. He gave examples of what some other states did, such as parking an empty patrol car at the sites.

(Meter 1554) CHAIRMAN HOLMBERG asked the committee what it's wish is on this bill.

(Meter 1565) SENATOR ROBINSON stated that he supports the concept but should be looked at by the subcommittee and may be needed a small amendment for clarification.

(Meter 1580) SENATOR ANDRIST declared that he felt it is not the appropriations position to monitor the policy here. (Meter 1637) SENATOR KRINGSTAD stated that he feels it is a good bill, and wants a no tolerance zone. He talked about the flag people, new signage, and on the status of the flag people trying to direct people to slow down. He feels this legislation will solve some of these problems.

(Meter 1830) There was a motion of a DO PASS by SENATOR KRINGSTAD with a seconded by SENATOR ANDRIST.

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(Meter 1871) SENATOR MATHERN suggested that they hold the vote and send it over to the Highway Patrol. (Meter 1881) CHAIRMAN HOLMBERG stated that there will be an ongoing subcommittee that is working on the Highway Patrol and can get some clarification on that.

(Meter 1900) SENATOR ROBINSON stated that he is aware they (the Senate Appropriations committee) usually does get into policy issues but feels something as important as this, it is incumbent on them to feel comfortable to do the right thing.

(Meter 1970) A roll call vote passed the bill with a vote of 10 yeas, 2 nays and 2 absent. The bill goes back to the Transportation committee with Senator Espegard to carry the bill.

Closed the hearing on HB 1322.

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Date: 3-13-03  
Roll Call Vote #:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1322

Senate Appropriations Committee

☐ Check here for Conference Committee

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

Action Taken Do PASS

Motion Made By Kringstad Seconded By Andrust

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman	✓				
Senator Bowman, Vice Chair	✓				
Senator Grindberg, Vice Chair	✓				
Senator Andrust	✓				
Senator Christmann	✓	✓			
Senator Kilzer	✓				
Senator Krauter					
Senator Kringstad	✓				
Senator Lindaas	✓				
Senator Mathern	✓				
Senator Robinson		✓			
Senator Schobinger					
Senator Tallackson	✓				
Senator Thane	✓				

Total (Yes) 10 No 2

Absent 2

Floor Assignment Transportation Espgaard

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

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**REPORT OF STANDING COMMITTEE (410)**  
March 13, 2003 11:31 a.m.

Module No: SR-44-4655  
Carrier: Espegard  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
**HB 1322: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS**  
(10 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). HB 1322 was placed on the  
Fourteenth order on the calendar.

Page No. 1

SR-44-4655

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2003 TESTIMONY

HB 1322

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House Transportation Committee

January 23, 2003

House Bill 1322

Testimony of Rep. Dave Weller, District 30 Bismarck

Chairman Weiss and Members of the House Transportation Committee.

HB 1322 deals with highway construction zone speed limits. Last session the legislature passed a bill to double the fines for speeding in a construction zone.

About a year ago a girl working in a construction zone near Dickinson ND was killed by a motorist that was traveling to fast.

Curt Peterson, from the ND Association of General Contractors told me that construction workers still face extremely dangerous situations all over the state each day. The problem still exists.

HB 1322, if passed, will go along way to help resolve this issue of speeding in a construction zone.

Key words in this piece of legislation are on line 21 "and place", the fine is only doubled if there is or are construction workers at the time and place of the violation.

The amendment clears up the issue dealing with, what the fine is when you are speeding in a construction zone and there is not construction workers "at the place" of the violation.

This concludes my testimony and I would be happy to answer any questions.

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# Associated General Contractors of North Dakota

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## HOUSE TRANSPORTATION COMMITTEE

January 23, 2003

**Associated General Contractors of North Dakota  
Mark Dougherty, Membership Service Director**

### HB 1322

---

Good morning Mr. Chairman and House Transportation committee members. My name is Mark Dougherty and I am the Membership Services Director for the Associated General Contractors of North Dakota. It's my pleasure to present you with our position on House Bill 1322.

The AGC of North Dakota represents approximately 400 companies involved in construction within North Dakota. One of the Associations main programs involves training for safety in our states Highway construction work zones. As with most industries in the state, the construction industry struggles to maintain its work force numbers and we surely don't want to lose workers because of someone's exceeding the speed limit through a busy construction work zone. These work zones are very distracting when you're driving the reduced speed limit and we feel that when exceeding that speed you put yourself, the immediate public and especially our workers at great risk of serious injury and possible death. These workers are out there every day during our short construction season, doing their best to complete the projects that make our every day travel a pleasure rather than a pain and we hope this bill will give them the break they need to do the job in relative safety.

Our feeling is the existing fees for exceeding the speed in construction work zones is inadequate to seriously deter those citizens that are want to speed when passing our workers and the proposed fees would surely be more effective.

In closing we urge you to approve House Bill No. 1322 and save our construction workers from an ever present danger.

Mr. Chairman and committee members thank you for your time and I'd be pleased to answer questions at this time.

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**HOUSE TRANSPORTATION COMMITTEE**  
**January 23, 2003**

**North Dakota Department of Transportation**  
**Grant Levi, Deputy Director for Engineering**

**HB 1322**

Good morning Mr. Chairman and members of the committee. I'm Grant Levi, Deputy Director for Engineering for the North Dakota Department of Transportation.

The department supports HB 1322. HB 1322 would increase the fees for violating a highway construction zone speed limit where people are doing construction work at the time and place of the violation.

Highway construction projects take place on hundreds of miles of the state's highways every year. This construction requires workers and equipment to operate very close to traffic. In 2001, the North Dakota Highway Patrol issued 1,027 citations in construction work zones. In 2002, they issued 1,158 citations. This is more than a 12 percent increase in citations in one year.

For the safety of the public as well as construction workers, it is critical that the posted speed limit be enforced when workers are present. Department employees who work in these construction zones have asked for higher penalties as a deterrent to speeding violations in construction work zones. When they're asked about work area concerns, our employees tell us that speed enforcement in work zones is one of their major concerns. The risks encountered by construction and maintenance employees in work zones is great. Anything that can be done to help reduce these risks should be done.

This concludes my testimony for HB 1322. I would be happy to answer any questions the committee may have.

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## House Bill 1322

Senator Trenbeath and members of the Senate Transportation Committee

For the record my name is Rep. Dave Weiler from District 30 hear in Bismarck.

HB 1322 is a safety issue.

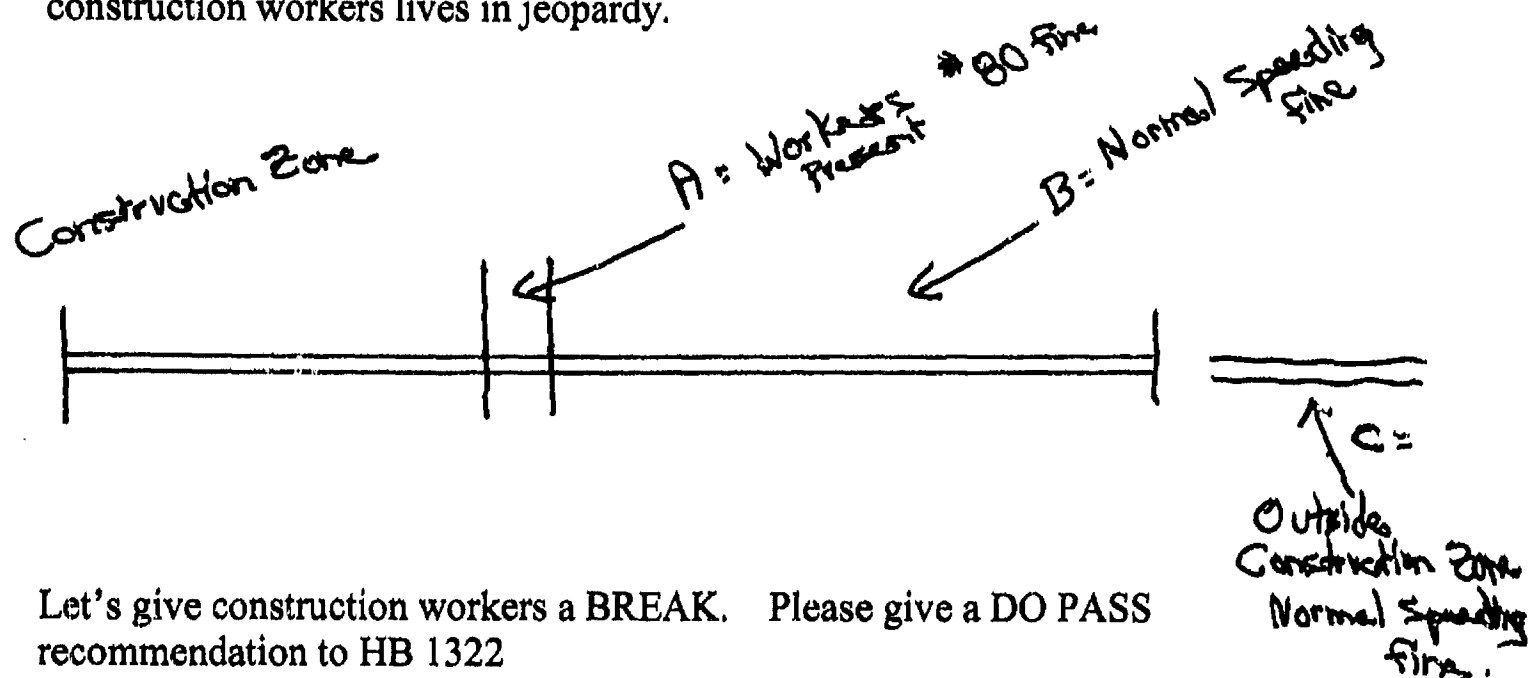
18 months ago a lady working in a construction zone was killed near Dickinson. A total of 3 fatalities occurred in ND in the last 2 years.

225 people nationwide were killed in work zones in 2002.

In at least 20 other states the fines run as high as \$1000 and even jail time.

There are many good reasons why this bill passed 85 to 8 in the house, the fact remains there is still a problem with speeding motorists in construction zones.

Yes this is a fine increase, but it is only that, if you disobey the law, and put construction workers lives in jeopardy.



Let's give construction workers a BREAK. Please give a DO PASS recommendation to HB 1322

Thank you Chairman Trenbeath and members of the committee.

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# AGC Highway Facts Bulletin

Associated General Contractors of America, 333 John Carlyle Street  
Suite 200, Alexandria, VA 22314 • 703-837-5319 • FAX 703-837-5407  
February 27, 2003 Distributed to AGC Highway Members and All AGC Chapters



## 216 Days Until TEA-21 Expires – Do Your Senators and Representatives Know?

### AGC Testifies Against Mobile Machinery Tax Proposal-Implementation Delayed

AGC Director of Congressional Relations for Tax and Fiscal Affairs, Phil Thoden, testified today before an Internal Revenue Service (IRS) review board and asked that the IRS proposal to tax off-road, mobile machinery commonly used in construction be withdrawn. A total of 29 witnesses appeared before the IRS panel, and all were united in their opposition to the proposed change. At the outset of the hearing, an IRS official noted that, in response to a request by Senate Finance Committee Chairman Charles Grassley (R-IA) and Ranking Member Max Baucus (D-MT), they would delay further action on the proposal until Congress has the opportunity to review the mobile machinery tax exemption during TEA-21 reauthorization. While stopping short of fully withdrawing the proposal, this action is a step in the right direction. AGC encouraged the senators to seek review. AGC also worked with Rep. Paul Ryan (R-WI) to craft a letter in opposition to the change and assisted in getting 94 other Representatives to sign it. The dozens of letters from AGC members to the IRS also undoubtedly played a strong part in the decision to further review the issue. A copy of AGC's comments are available at [www.agc.org](http://www.agc.org)

### Work Zone Safety Bill Introduced

Reps. Jack Quinn (R-NY) and Nick Rahall (D-WVA) have introduced HR 906, "The Surface Transportation Safety Act of 2003." The bill allows for more flexible use of safety funds by making additional items eligible for payment. The legislation would allow for greater use of these safety funds for police assistance for traffic and speed management and positive barriers in construction work zones. The legislation will be considered as House and Senate committees begin to draft their TEA-21 reauthorization proposals. AGC has highlighted work zone safety as a top priority in TEA-21 reauthorization and, specifically, has identified increased use of law enforcement in work zones and greater use of positive barrier as major goals. The legislation would also direct FHWA to issue regulations requiring workers whose duties place them on or in close proximity to a Federal-aid highway to wear high visibility garments.

### Senate Committee Grills FHWA Administrator About Highway Funding

The Senate Environment and Public Works, Subcommittee on Transportation and Infrastructure held a hearing today to examine the Bush Administration's Fiscal Year 2004 budget proposal for the highway program. A group of bipartisan Senators, led by subcommittee chairman Kit Bond (R-MO), highlighted the tremendous highway and bridge needs our nation faces and pointed out the need to significantly boost highway funding in the upcoming reauthorization bill. The Administration's witness, FHWA Administrator Mary Peters, was repeatedly questioned on how we can meet the nation's mounting highway needs when the Administration's budget calls for only \$29.3 billion for FY 2004 (\$2.5 billion less than this year's funding level). Administrator Peters defended the budget request stating that the Administration believes it is a responsible level of funding. She also reiterated that the Administration is opposed to raising the federal gas tax. AGC continues to emphasize the need to significantly boost highway funding to address the documented needs.

### House and Senate Committees Call for Increased Highway Funding

The first big hurdle in the drive towards TEA-21 reauthorization this year will be the budget resolution passed by the Congress. AGC and our industry allies have been working with the House T&I Committee and Senate EPW Committee to ensure that the budget resolution provides an adequate funding number for the highway program. Bipartisan leaders of the Senate EPW Committee have drafted a letter to key Senate leadership calling the Administration's budget request inadequate and recommending increased funding for the transportation programs. In a show of strong support for adequate highway investment, 64 Senators have agreed to join in signing the letter with at least 2 more likely to join. In the House, the bipartisan leadership of the T&I Committee have also sent a letter calling for a highway funding level that addresses documented needs.

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Mark Nelson

SUBJECT: HB 1322, Construction Zone Fines

Mr. Chairman, members of the committee,

The North Dakota Highway Patrol favors HB 1322, a bill which increases the minimum penalty for individuals electing to speed through construction zone sites, **with workers present**. Our agency has first hand knowledge of the dangers imposed anytime you elect to stop on a highway thoroughfare. The inherent risks to construction zone workers are present everyday, and the need to monitor and control traffic speeds within these areas is crucial.

Our agency has worked closely with DOT in providing additional funding so that our troopers, working additional overtime hours, can key on visibility within these construction zone sites. During the past year, the highway patrol has issued numerous citations in construction zone areas, the average speed cited, regardless of the posted speed zone, was significant.

The North Dakota Highway Patrol will continue to work closely with DOT, and we will continue to provide for a strong emphasis on reducing speeds through these construction zones. Visibility and enforcement by our troopers will continue to be a priority, but voluntary compliance is the ultimate goal. If this bill helps to get the motoring public to slow down voluntarily, thus creating a safer environment for our highway workers, then our agency definitely supports such measures.

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2001 Contstruction Zone Citations

Speed Zone	Avg. Speed
25	47.6
40	54.8
45	60.1
50	71.3
55	68.7
60	72.2
65	75.3
70	83.1

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# 2002 Contstruction Zone Citations

Speed Zone	Avg. Speed
15	30
20	34
25	50.5
35	50.4
40	56.1
45	60.2
50	65.1
55	70
60	73
65	75.8
70	82.3

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Date

Exhibit 2

**SENATE APPROPRIATIONS COMMITTEE**

**March 13, 2003**

**North Dakota Department of Transportation  
Grant Levi, Deputy Director for Engineering**

**HB 1322**

Good morning Mr. Chairman and members of the committee. I'm Grant Levi, Deputy Director for Engineering for the North Dakota Department of Transportation.

The department supports HB 1322. HB 1322 would increase the fees for violating a highway construction zone speed limit where people are doing construction work at the time and place of the violation.

Highway construction projects take place on hundreds of miles of the state's highways every year. This construction requires workers and equipment to operate very close to traffic. We have worked with the North Dakota Highway Patrol to enhance speed enforcement in construction work zones. While this enhanced enforcement has helped, we believe an increase in fees is necessary for the safety of the public as well as construction workers.

Department employees who work in these construction zones have asked for higher penalties as a deterrent to speeding violations in construction work zones. When they're asked about work area concerns, our employees tell us that speed enforcement in work zones is one of their major concerns. The risks encountered by construction and maintenance employees in work zones is great. Anything that can be done to help reduce these risks should be done.

This concludes my testimony for HB 1322. I would be happy to answer any questions the committee may have.

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