

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1054

2005 HOUSE TRANSPORTATION

HB 1054

2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. HB1054

House Transportation Committee

☐ Conference Committee

Hearing Date January 6, 2004

Tape Number

1

Side A

X

Side B

Meter #

11.5 - 33.8

Committee Clerk Signature



Minutes:

Chairman Weisz opened the hearing on HB 1054, a Bill for an Act to amend and reenact section 39-06.1-11 of the North Dakota Century Code, relating to temporary restricted driver's licenses.

Rep. Carlisle explained the bill.(11.9) What this bill is going to do; about half of our participants in our drug courts are drug uses and half are multiple DUI and they are screened heavily to get into court and they have to work either 40 hours work each week or work in some type of community service and they are subject to drug testing and so they are tied up very tight.

Basically, what happens is some people that are being treated for drug addiction are driving the folks that don't have drivers license to work or to community service so the main part of the bill on the back page; line 3. Judge Haskell signs off after going through a lengthily process and the person has been clean for a year.The bottom line is we are trying to get some of the folks that are in the courts a chance to get to work the best.

Rep. Delmore wondering if there is a requirement that they have insurance? Many of the people in this circumstance do these people have insurance?(14.7)

Chairman Weisz asked if there were any other here in support of HB1054?

Judge Bruce Haskell district court judge spoke informing the committee that they have seen problems with people maintaining jobs and school because of their inability to drive. The bus program is not real good so makes it hard to get around. One of the requirements is that the participant is working full time or going to school full time or if they are not they are required to be involved in community service, and obviously transportation is a big issue. I think the bill the way it is drafted the licenses would be checked fully before it would be given and secondly the license is restricted to work hours and the goal is the get people to and from work. Discussed the need to be able to attend treatment facilities which is harder to do for the rural area. Rep. Carlsle had addressed any other concerned earlier. (16.8) Rep. Delmore to answer your question there is a requirement that people have liability insurance and I don't see that there is a separate requirement.

Rep. Thorpe liked the verbiage on line 9, page 2. The director may also require that an ignition interlock device be installed in the offender's vehicle. Wasn't there a national company that handled this and I don't know how they would excess them? I do feel more comfortable giving the director the authority.(18.)

Judge Bruce Haskell I recall taking about interlock devices and we haven't had experience ordering them, but I know judges in the district have ordered them. Keith might even know better how that works, but I think that the fact that the wording is discretionary is a very important part of the bill because that means there are several layers of oversight here. I would

like to personally see all the interlocking devices in every ones that is approved for one of these, but whether they are practical or not I don't know. I agree Rep. Thorpe, that main language is important..(18.7)

Rep. Weiler how long does one person serve?

Judge Bruce Haskell said it is possible to finish the program in a year; but no one has done that yet. The average time a graduate is in the program is 1 ½ years, and some up to two years. Typically a year and half is what it takes.

Rep. Weiler so they clean for a year? So if they were in the program 1 1/2 it would be just that last 6 months that they will be able to use their drivers license.

Judge Haskell reads this that you would not have been in the drug court already; you can have a clean year if DOT goes back and see that you hadn't had any violations for the year; even proceeding year participation in the drug court, you could take advantage of that last half year.

Chairman Weisz said the way he understands it; if you are in drug court for reasons unrelated to any driving infractions you could then issue a drivers license immediately based on this criterion.

Judge Haskell said that would be his understand.(20.1)

Rep. Rubv asked if the wording should be shall in this situation.(20.8)

Judge Haskell ask he would not mind changing the wording, but what the DOT's position on that, I don't know. I am not sure mechanically how every thing works.

Rep. Dosch (21.4) Is there any requirement for ongoing treatment for drugs or DUI's?

Judge Haskell said he thought that if they are not complying with the court order that, if there is a violation I would assume that I could contact DOT and inform them they are not complying and

then could revoke that license. The way the drug court works for treatment it is set up in four phases and all of them have to have completed treatment before they are allowed to graduate. As long as they are in the drug program there is some component of treatment going on. (23.0)

Chairman Weisz if they don't complete the program what happens to them? Do they go to jail or what?

Judge Haskell said what happens is a protection for revocation of probation is filed by the appropriate states attorney and you would have a probation notification.

Keith Magnusson spoke in support of the HB 1054.(23.6) We have always supported the drug court for those who have not really made it within the system and they have had some good successes. We comply with federal law so we don't lose any federal highway funds. I think they have a 10 day jail sentence first, before they start the 365 days; one year suspension, before we can give them anything. After that it is our discretion. I think the fact that the discretion is in here; to answer Rep. Delmore questions already requires proof of liability insurance. That is built into the law already; and if it weren't we would not give them a temporary license without it anyway. That's why the may is in there because the judge may recommend and we may have gotten something in from another court with another offense and we go with what the judge recommends. Rep. Ruby said maybe it should be shall, but we would like to keep that the way it is with may because there are no interlock vendors in ND and numbers of our courts would be so small that we could not get a vendor to come in. Only way we could maybe get enough to have a vendor come in it to make it mandatory and the repeat offender bill will be back in again. Asked not to change the interlock provision and we can use our discretion. Most of these people seeking jobs and going to school probably could not afford the costs.

We like the discretion the way it is now. We now have the authority for them to use the permit for work, school and treatment.

Rep. Price I realize that the proof of insurance is a requirement, but there is nothing to get them from dropping it in 6 months; do you think that they should be checked at any time so that they maintain insurance:

Keith Magnusson said we get notification if they drop and we will jerk the permit right away.(27.6)

Rep. Meyer asked at the completion of the drug court program do these people walk away with a completely clean record?

Keith Magnusson said no, what is on their record will be on their record and they as long as they stay clean we keep reissuing that restrictive license. It does not wipe out what they have done. It keeps their record in tack unless they are a juvenile which is not open to the public. But for law enforcement, insurance and the general public, we need to keep their driving record in tack. This program is really to help those people to help themselves that haven't been helped by any other means.

Rep. Iverson asked if they would drop their insurance; wouldn't that be a violation of their parol? Keith said yes, that would be.(28.9)

Rep. Dosch Keith you feel you do have authority to pull the license if the individual does not follow court even though they have had no violations. Keith's answer was yes. The department now has the discretion to pull permits if we get word they are in violation.

Rep. Delmore

(30.3) Do you keep in contact with the judges state wide and that then would be the judges responsibility to see what the record looks like.

Keith Magnusson (30.7) We don't think so; we work with courts and prosecutors and actually the judges and prosecutors can bring up the record right there if they have questions. Our aim again is to improve our drivers and get them back on the road.

Rep. Ruby (31.0) You indicated you already have the ability to issue temporary license, why do we need this? Because it is more restrictive?

Keith Magnusson right now our law prohibits us from issuing a temporary, restrictive license if they have an extension of a year or more. This would make an exception to that. There are a couple other exceptions in the law now for some very long term or people have been revoked.

Rep. Weiler If someone is in the drug court program and then they complete that, but they still have another year left on their suspension you said that you would be able to continue with this restrictive drivers license even though they are not in the program. Just wanted clarification.(32.3)

Keith Magnusson We take that as giving them an initial one, under present law we could not even give them a temporary restricted permit and if we give them one we can not see any reason to take it away as long as they are being successful. The permit is given to each individual based on their conduct.

Rep. Weiler reason I asked that questions was that someone had to be participating in the program to be able have this restrictive drivers license, but if they are not in the program any

longer and they have another year left on their suspension they would still have that restrictive drivers license. (33.0)

Keith Magnusson we look at this language to initially issue them one for a certain period of time.

Chairman Weisz No further questions. No other support for HB 1054. No on here in opposition of HB 1054. (33.8)

Further Discussion:

Rep. Bernstein said sometimes these people in this program do not care whether they have a license or not. That is the only though I have on it.

Rep. Iverson made a statement that the people that are in this program are pretty motivated to clean up their lives. I think the vast majority of their people feel this is my last shot at cleaning themselves up.

Motion made by Rep. Dosch; Seconded by Rep. Thorpe.

Do Pass on HB 1054 14 Yes 1 No Carrier Rep. Thorpe

Date: 1-6-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1054

House Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *No Pass*

Motion Made By *Rep. Dosch* Seconded By *Rep. Thorpe*

Representatives	Yes	No	Representatives	Yes	No
Rep. Weisz - Chairman	✓		Rep. Delmore	✓	
Rep. Hawken - Vice Chair.	✓		Rep. Meyer	✓	
Rep. Bernstein	✓		Rep. Schmidt	✓	
Rep. Dosch	✓		Rep. Thorpe	✓	
Rep. Iverson	✓				
Rep. Kelsch	✓				
Rep. Owens	✓				
Rep. Price	✓				
Rep. Ruby		✓			
Rep. Vigasaa	✓				
Rep. Weiler	✓				

Total (Yes) 14 No 1

Absent 0

Floor Assignment *Rep. Iverson*

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

REPORT OF STANDING COMMITTEE (410)
January 6, 2005 11:13 a.m.

Module No: HR-03-0119
Carrier: Iverson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1054: Transportation Committee (Rep. Weisz, Chairman) recommends DO PASS
(14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1054 was placed on the
Eleventh order on the calendar.

2005 SENATE TRANSPORTATION

HB 1054

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1054

Senate Transportation Committee

☐ Conference Committee

Hearing Date 3-04-05

Tape Number	Side A	Side B	Meter #
1	x		30-1255

Committee Clerk Signature

Mary K Monson

Minutes:

Chairman Trenbeath opened the hearing on HB 1054 relating to temporary restricted driver's licenses.

Representative Ron Carlisle (District 30) Introduced HB 1054 saying it will make a potential change to a temporary restricted driver's license. This would provide, with super tight restrictions and in certain situations, that a temporary license can be issued so the person in drug court can go to work. Restrictions in drug court requires doing a substantial number of hours of community service, to be working, or to be a student.

Judge Gail Hagerty (District Judge in Bismarck) See attached testimony supporting HB 1054.

It is very difficult for people to keep a job if they aren't able to drive. They work with incentives and sanctions in the drug court. When people do well there are incentives for doing well. There are sanctions when they don't do well. She feels this would be a helpful tool in the rehabilitation process.

Senator Espegard asked if this is after they have not had another problem in a year.

Judge Hagerty replied yes. She said that many times people who have had multiple DUI's lose their licenses not for one year but for four or five years. There are tremendously long times of suspension because while they are racking up the DUI's they are probably driving under suspension, without liability, etc. They get multiple convictions and the suspensions add up.

Senator Trenbeath wanted to know how this relates to multiple DUI offenders who don't or don't have the opportunity to participate in the drug court program. He also asked if the drug court program is being expanded.

Judge Hagerty said there are efforts to expand the drug court program but the law currently makes a provision for making application after two years. Someone who wasn't involved in that drug court program could make an application after two years to get a temporary restricted license. It would be helpful to them if they would support that with letters from treatment people, probation people, and the judge.

Senator Trenbeath said it's just as difficult for a person on their second or third DUI to make a living as it is for a person involved in a drug court.

Judge Hagerty said it is probably more difficult. What they are doing is providing the monitoring so there is some additional assurance for the people in the drug court program. They are coming to court on a regular basis. They are in an intensively supervised probation. And many other offenders don't have that monitoring going on. Drug court people also have to test on a weekly basis.

Senator Trenbeath asked if multiple DUI defendants in drug court are there for any other reason. Asked if they were assignable to drug court.

Judge Hagerty replied that under some legislation from the last couple sessions people with multiple DUI offenses can be sentenced to drug court. They have to serve 10 days of their sentence and then they serve the rest of the sentence by successfully completing the drug court program.

Senator Trenbeath asked if they are reasonably monitored as far as testing on a weekly basis if alcohol is their drug of choice.

Judge Hagerty replied that, if alcohol is their drug of choice, they are tested randomly three times a week when they initially start. They are easy people to test. The probation officer goes out to the work site. They surprise them at home.

Senator Nething asked if the program has gone far enough yet to tell the effectiveness of the program.

Judge Hagerty said they are evaluated on a regular basis and they are doing better than any other program in terms of rehabilitation.

Senator Espegard asked if they come in every day and if it is an update on how things are going.

Judge Hagerty said they come to court every week in the first phase of drug court. Later they come every other week. Before they graduate they come every third week. Every time they come to court they are asked how they are doing with their job, if they are paying their bills, etc.

Senator Nething was interested in what she anticipated for the next two years.

Judge Hagerty thought this would only affect a limited number of people and would help in their rehabilitation. They want to get people in the community working as productive members of society--learning how to live clean and sober.

Keith Magnusson (ND DOT) Testified in support of HB 1054. They have worked with Judge Hagerty and Rep. Carlisle to make sure this works and also complies with federal law. They feel there is something needed like the drug court program and hope it will be expanded. The system we have now, taking their license, just isn't working. They have to want the help. They feel this temporary permit is very highly structured and monitored. If it can help some people, they are all for it.

Senator Mutch asked if this would wipe out their past history.

Keith Magnusson said it wouldn't wipe out their past history but it will give them a chance.

There are some tools there for people who really want the help.

The hearing on HB 1054 was closed.

Senator Nething motioned a **Do pass**. Seconded by **Senator Bercier**.

Roll call vote. 6-0-0. **Passed**. Floor carrier is **Senator Nething**.

Date: 3-4-05
Roll Call Vote #:

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO 1054

Senate

TRANSPORTATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Sen. Nething Seconded By Sen. Bercier

Senators	Yes	No	Senators	Yes	No
Senator Espegard	✓		Senator Bercier	✓	
Senator Mutch	✓		Senator Warner	✓	
Senator Nething	✓				
Senator Trenbeath, Chairman	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Nething

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

REPORT OF STANDING COMMITTEE (410)
March 4, 2005 12:22 p.m.

Module No: SR-40-4177
Carrier: Nething
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1054: Transportation Committee (Sen. Trenbeath, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1054 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY.

HB 1054

Testimony on House Bill 1054

Senate Transportation Committee

by Gail Hagerty, District Judge

Mr. Chairman, Members of the Committee—

I am Gail Hagerty. I'm a district judge in Bismarck, and I'm one of the judges for the adult drug court. The drug court has been in operation for more than four years now, and one of the interesting things we've observed is the relationships which have formed between the participants in drug court. They help and support each other through the process.

We've noticed that the people who are in drug court because of controlled substance violations often provide rides for the people who are in drug court because of DUI violations. And we've noticed that the DUI offenders, who have lost their driving privileges for years and years, face a more difficult challenge in rehabilitation. It's difficult to keep a job and get to treatment and meet with your probation officer if you can't drive.

Suspension of driving privileges is an effective and appropriate sanction. What we're asking with the legislation before you is to provide a very limited temporary restricted license for drug court participants who have not committed an offense for a year and receive a positive recommendation from a drug court judge.

The restricted license would come with conditions and would be used only during normal working hours and for approved purposes.

Thank you for your consideration.