

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1096

2005 HOUSE TRANSPORTATION

HB 1096

2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. 1096

House Transportation Committee

☐ Conference Committee

Hearing Date January 7, 2005

Tape Number

1

Side A

X

Side B

Meter #

15.8- 30.6

Committee Clerk Signature



Minutes:

Chairman Weisz opened the hearing on HB 1096 A Bill for an Act to amend and reenact section 39-10-07.3 of the North Dakota Century Code, relating to interference with official traffic control devices:.

Gary Berreth, Director of Operations with DOT: Spoke (see attached testimony) in support of HB 1096.

Rep. Delmore: (17.4) Just a couple of questions. What is the availability of these devices. Do they get them through the Internet or how do they get a hold of them.

Gary Berreth: I don't know if I can answer that question. We have not looked into that part of the availability.

Rep. Delmore: Why are we not putting any responsibility on the manufacture who is allowing people to purchase these devices?

Gary Berreth:(18.1) I believe in SB 2049 we have addressed that. I don't think we have a problem.

Rep. Delmore it is just interesting that it talked about that specific bill and it talks about the unlawful use of it by the user. (See attached copy of SB 2049)

Rep. Weiler(19.4) Is \$20 enough?

Gary Berreth: One of the differences between HB 1096 and SB 2049 actually determines it is a Class B misdemeanor which can be \$1,000 on that part of it.

Rep. Thorpe (19.9) Has there been any problems that participated this bill or are you just trying to head off a possibility?

Gary Berreth: To my knowledge there has been no actual problem. In regards to the Internet, I am sure it is allot easier to get a hold of these devices now. We are just trying to head off a potential problem.

Rep. Weiler I am under the impression that when you explained it SB 2049 was for the sale of the device and HB 1096 is for the use of it. Am I correct in that. Gary said he has not had a change to read that SB 2049 yet. Rep. Weiler said if it does cover SB 2049 is for the sale and also for the use why do we need HB 1096.

Gary Berreth: We would just as soon see both of them progress right now to be sure that one of them passes. We would have no objections if only SB 2049 passed.

Rep. Dosch(21.7) Is the term authorized operator defined some where in the code?

Gary Berreth: It is my understanding that authorized operator is for emergency vehicles.

Rep. Schmidt: First, this HB 1096, there is allot of room on this bill; couldn't you incorporate this bill with SB 2049. Second question is on line 7 a person may, that is pretty loose. Shouldn't that say shall not.

Gary Berreth: We have not objection to either one of the bills.

Rep. Schmidt: Wants to know why we can't cut down on number of bills since our constituents want to know why we have so many bills? We know that these bills cost and we need to cut that down. Did not think that we should have two bills being introduced, which just costs more money.

Gary Berreth:(23.6) When we introduced this we were not aware HB 2049 was going to be introduced. We introduced it as an agency bill.

Rep. Iverson You can do the same thing with a high powered flashlight, because when I was younger we did this. I am not saying I want people to do illegal things, but I am saying that are we going to go to Scheels and tell them we can't sell them. I am just saying if someone wants to brake the law they will find a way to do it.

Rep. Hawken In looking at these that your bill that you have introduced is a different section of code and there is obviously a reason that you wanted it this way.

Rep. Weiler If HB 1096 passes it sounds like there will be a \$20 fine. If SB 2049 passes it is going to be \$1,000. What if they both passed?

Gary Berreth: (26.2) I don't feel it is necessary that both of them pass. We were hoping that legislators would make of their mind. We just want to support the concept.

Chairman Weisz For clarification section they are putting in 3910 does deal with signals and would be relative to flashing signals and 559 actually deals with motor vehicle code. They are not addressing the signal issue but they are getting into the motor vehicle section of code.

Rep. Price (27.6) I think we need the list that deals with the infractions, misdemeanors and the penalties that go with them; because one is for use and one is for sale. Maybe we could have someone clarify that for us.

Keith Magnusson:(28.7) I am not a legal counsel, but if I remember right a Class B Misdemeanor carries a maximum of \$1,000 fine and 30 days in jail and a infraction carries \$500 maximum and no jail time. Chairman Weisz asked about getting the sheet with the list of fines and highway patrol does that. Could you check that for us and get it to us since it is helpful for our committee.

Chairman Weisz Anyone else here in support of HB 1096. Anyone in opposition of HB 1096.

Closed on HB 1096 (30.6)

Discussion:

Rep. Thorpe(4.9) Side B. Thinks it is a bill looking for problems.

Rep. Iverson I agree with Rep. Thorpe. They are trying to alter or deface. It looks like they are already covered. DOT has their own regulations.

Rep. Owens There has been a case in Grand Forks where someone was fooling around with strove lights and set them off just in the past year. I assume interference with refer to when it was actually in use.

Chairman Weisz Said it is already in law that we cannot alter, deface, or injure, knock down or move. We can't physically remove one, but they thought the law was gray enough that it did not come under physically altering a device.

Rep. Vigesaa : Actually as this bill was presented it doesn't really even mention a preempted device. Actually it is just adding interference with the operation.

Chairman Weisz Your right, they are not specifically trying to address the preempted devices, they are saying you cannot interfere with a traffic control signals. They are not trying to be specific, but are saying you cannot do this.

Rep. Weiler (7.3) Altering, defacing or knocking them down has nothing to do with the operation. That is more of a physical change. Alter covers it in my mind.

Rep. Bernstein I Everything is pretty well covered. Interfere with the operation thereof. It is against the law right now to interfere to interfere with just a standard stop sign. If you move a standard stop sign then you interfere with the operation of it.

Chairman Weisz In response to both Rep. Weiler and Rep. Bernstein, I more or less agree, but I think this is what their issue is, what does alter really mean and I think they are saying this makes it clear.

Rep. Hawken Another issue that they may not have thought of is that towns with a railroad crossing they are going to a no quiet zones, that is going to be a bigger issue so I am not sure adding that in is not a bad thing to do. That is certainly going to be a bigger issue.

Rep. Dosch Our intern just went on the Internet to see if you can buy one of these for \$299 right off the Internet. Just trying to get the notice out there that it is against the law.

Rep. Delmore Attempt to alter. If they stop you is it out in the open so there is a reason to stop you if the laser light is out in the open. It doesn't limit it to the devices we are talking about to buy. That concerns me especially when we have the attempt to or actually accomplishing it.

Rep. Owens With Rep. Iverson past experiences it is because of people like him that they have changed these devices and it is very hard to duplicate with high power beams flashing with your general laser. It is very hard to do that now. They must specifically understand the frequency.

Motion made by Rep. Kelsch

Seconded by Rep. Price

Do Pass

12 Yes

3 No

0 Absent

Carrier: Rep. Iverson

Date: 1-7-05
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1096

House Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Motion Made By

Seconded By

Representatives
Rep. Weisz - Chairman
Rep. Hawken - Vice Chair.
Rep. Bernstein
Rep. Dosch
Rep. Iverson
Rep. Kelsch
Rep. Owens
Rep. Price
Rep. Ruby
Rep. Vigasaa
Rep. Weiler

Yes No
✓
✓
✓
✓
✓
✓
✓
✓
✓
✓
✓
✓

Representatives
Rep. Delmore
Rep. Meyer
Rep. Schmidt
Rep. Thorpe

Yes No
✓
✓
✓
✓

Total (Yes)

12

No

3

Absent

0

Floor Assignment

Rep. Iverson

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

11th order

REPORT OF STANDING COMMITTEE (410)
January 7, 2005 11:04 a.m.

Module No: HR-04-0166
Carrier: Iverson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1096: Transportation Committee (Rep. Welsz, Chairman) recommends DO PASS
(12 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1096 was placed on the
Eleventh order on the calendar.

2005 SENATE TRANSPORTATION

HB 1096

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1096

Senate Transportation Committee

☐ Conference Committee

Hearing Date 2-25-05

Tape Number	Side A	Side B	Meter #
1	x		25-390

Committee Clerk Signature

Mary K Monson

Minutes:

Chairman Trenbeath opened the hearing on HB 1096 relating to interference with official traffic control devices.

Chairman Trenbeath turned the hearing over to **Vice Chairman Espegard**.

Gary Berreth (Director of Operations, ND DOT) See attached testimony.

Senator Bercier asked if SB 2049 had been heard in the House.

Gary Berreth said that it had not.

The hearing on HB 1096 was closed.

After a short discussion, it was decided to hold action pending the hearing on SB 2049 in the House.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1096

Senate Transportation Committee

☐ Conference Committee

Hearing Date 3-03-05

Tape Number

2

Side A

x

Side B

Meter #

1110-1695

Committee Clerk Signature

Mary K Monson

Minutes:

Chairman Trenbeath opened HB 1096 for discussion.

There was discussion that indicated this bill was a cleaner bill than SB 2049 that dealt with the same issue. HB 1096 does not provide for a penalty, but it is under the general penalty section as a Class B misdemeanor.

Senator Espegard motioned a **Do Pass**. Seconded by **Senator Warner**.

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

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

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO 1096

Senate

TRANSPORTATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass*

Motion Made By *Sen. Espigard* Seconded By *Sen. Warner*

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

Total (Yes) 6 No 0

Absent 0

Floor Assignment *Senator Trenbeath*

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

REPORT OF STANDING COMMITTEE (410)
March 3, 2005 12:58 p.m.

Module No: SR-39-4061
Carrier: Trenbeath
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1096: Transportation Committee (Sen. Trenbeath, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1096 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY

HB 1096

HOUSE TRANSPORTATION COMMITTEE

January 7, 2005

**North Dakota Department of Transportation
Gary Berreth, Director of Operations**

HB 1096

Good morning, Mr. Chairman and members of the committee. I'm Gary Berreth, Director of Operations for the North Dakota Department of Transportation. I'm here to testify in support of HB 1096, which prohibits the unauthorized use of preemption devices to interfere with the normal operation of traffic signals.

A traffic control signal preemptive device emits a pulse of light or sends messages in other forms to a detector on the traffic signal. When the detector receives the message, it changes the light to green. If the signal is already green, the detector extends the duration of the green light.

Most of our larger cities use a preemption system to allow emergency and traffic signal maintenance vehicles to control a traffic signal to ensure a green light at intersections. However, current state law does not limit the use of preemption systems to authorized operators. As a result, non-emergency vehicles could preempt a signal system. HB 1096 would modify NDCC Section 39-10-07.3 to make it unlawful to interfere with the operation of signal lights and other traffic control devices. If the bill is passed the fee for illegal use of the preemption device would be \$20.

This situation is not unique to North Dakota. Several states, including Washington, Wisconsin, Minnesota, Virginia, and Oregon, have similar laws.

We recommend these changes because we are concerned a manufacturer may sell emergency vehicle preemption devices to unauthorized users. There is no way for us to make sure that the manufacturer sells the device only to authorized operators.

A similar bill – SB 2049 – addresses penalties imposed for violating the use or sale of traffic control signal preemption devices. Under SB 2049, the illegal use of a traffic control signal preemption device is an infraction, and the illegal sale of such devices is a Class B misdemeanor. NDDOT intends to support SB 2049.

###

*Used in
Testimony*
SENATE BILL NO. 2049*HB 1096
1-7-05*

Introduced by

Senators Flakoll, Nelson, Hacker, Brown

Representative Meier

1 A BILL for an Act to create and enact a new section to chapter 39-21 and a new section to
2 chapter 51-07 of the North Dakota Century Code, relating to a traffic control signal preemption
3 device; to amend and reenact section 39-06.1-05 of the North Dakota Century Code, relating to
4 offenses excepted from the administrative traffic procedures; and to provide a penalty.

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

6 **SECTION 1. AMENDMENT.** Section 39-06.1-05 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **39-06.1-05. Offenses excepted.** The procedures authorized under sections
9 39-06.1-02 and 39-06.1-03 may not be utilized by a person charged with one of the following
10 offenses:

- 11 1. Driving or being in actual physical control of a vehicle in violation of section
12 39-08-01, or an equivalent ordinance.
- 13 2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or
14 an equivalent ordinance.
- 15 3. A violation of chapter 12.1-16 resulting from the operation of a motor vehicle.
- 16 4. Leaving the scene of an accident in violation of section 39-08-04, 39-08-05,
17 39-08-07, or 39-08-08, or equivalent ordinances.
- 18 5. Driving while license or driving privilege is suspended or revoked in violation of
19 section 39-06-42, or an equivalent ordinance.
- 20 6. Violating subdivision b or c of subsection 5 of section 39-24-09.
- 21 7. Operating a modified motor vehicle in violation of section 39-21-45.1.
- 22 8. Driving without liability insurance in violation of section 39-08-20.
- 23 9. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.

10. Causing an accident with an authorized emergency vehicle in violation of subsection 4 of section 39-10-26.

11. Possessing a traffic control signal preemption device in violation of section 2 of this Act.

SECTION 2. A new section to chapter 39-21 of the North Dakota Century Code is created and enacted as follows:

Traffic control signal preemption device - Definition - Penalty. Unless a traffic control signal preemption device is located on an authorized emergency vehicle, the device may not be installed on a motor vehicle, may not be transported in the passenger compartment of a motor vehicle, and may not be operated by the driver or passenger of a motor vehicle. A "traffic control signal preemption device" means any device that emits a pulse of light or other signal that when received by a detector attached to a traffic control signal changes that traffic control signal to a green light or if the traffic control signal is already green extends the duration of the green light. Violation of this section is an infraction.

SECTION 3. A new section to chapter 51-07 of the North Dakota Century Code is created and enacted as follows:

Sale of traffic control signal preemption devices prohibited - Penalty. A person may not sell a traffic control signal preemption device as defined in section 2 of this Act to any person unless the device is sold for use in an authorized emergency vehicle. Violation of this section is a class B misdemeanor.

SENATE TRANSPORTATION COMMITTEE

February 25, 2005

North Dakota Department of Transportation
Gary L. Berreth, Director of Operations

HB 1096

Good morning Mr. Chairman and members of the committee. I'm Gary Berreth, Director of Operations for the North Dakota Department of Transportation. I'm here today to speak in support of the "concept" of HB 1096. I say concept because this bill is similar to SB 2049, which also prohibits the unauthorized use of preemption devices to interfere with the normal operation of traffic signals.

The Department of Transportation previously introduced HB 1096 because of concern that the equipment used for preemption was being marketed on the internet and several states have passed similar laws prohibiting unauthorized use.

The major differences between HB 1096 and SB 2049 are as follows:

- HB 1096 modifies NDCC Section 39-10-07.3 to make it unlawful to interfere with the operation of signal lights and other traffic control devices except for authorized operations. Illegal use of preemptive devices under HB 1096 would invoke a penalty fee of \$20.
- SB 2049 is more comprehensive in addressing penalties and goes beyond unauthorized use and also addresses the sale of such devices.

Even though the department initially introduced HB 1096, which occurred prior to us knowing SB 2049 would be introduced, the department would rather see SB 2049 become the surviving legislation. SB 2049 is more encompassing and better addresses more potential concerns.

Mr. Chairman, that concludes my testimony. I would be happy to answer any questions the committee may have.