

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1327

2005 HOUSE TRANSPORTATION

HB 1327

2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. 1327

House Transportation Committee

☐ Conference Committee

Hearing Date January 21, 2005

Tape Number	Side A	Side B	Meter #
1	X		18-33.6

Committee Clerk Signature



Minutes:

Chairman Weisz opened the hearing on HB1327 A Bill for an Act to create and enact a new subsection to section 39-29-09 of the North Dakota Century Code, relating to the operation of all-terrain vehicles.

Rep. Gulleason: This bill would give authority to the local political subdivisions to be able to use all-terrain vehicles or 4 wheels for the official purposes of spraying on the road ways; the bank and the inside slope and the shoulder specifically that is the programmatic area. Law enforcement happened to come by when they were going to spray and told them they could not use 4 wheelers, that it was against the law and they would be breaking the law. Highway patrol informed them they would not enforce the law, but they would like to see it changed. One suggestion is that, on line 6 we should expand that to other forms of insect or surveying

Sen Heitkamp:(20.4) Just a lot of common sense.

Rep. Weiler What if we put an emergency clause on it so they are able to do it right away this summer.

Rep. Heitkamp: That would be very much appreciated.

Monty Haugen: (23.3) I am a rancher from Milnor, ND. I am on the weed board and a weed officer. Like Pam was saying we had a meeting there and we need to use the ATV's for spraying. This was brought up to protect our help. In order for us to do a good job, we have to have those 4 wheelers to cover the area. I hope that you pass this for us.

Rep. Owens Does your 4 wheelers have break lights and turn signals and mirrors on them?

Monty Haugen: They have mirrors and stuff like that and sprayers on them.

Rep. Schmidt (24.9) You usually start spraying the first of June or earlier?

Monty Haugen: Earlier.

Jeff Olson:(see attached testimony) Stanley Wolf, Weed officer from Cass County and Merlin Leithold could not attend due to weather , but handed out testimony.(see attached testimony). Should change wording to pest control or surveying in the language of the bill. Discussed followed.

Chairman Weisz Anyone else here in support of HB 1327. Anyone in opposition of HB 1327?

Chairman Weisz Closed hearing (33.6)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. 1327

House Transportation Committee

☐ Conference Committee

Hearing Date January 27, 2005

Tape Number	Side A	Side B	Meter #
2	X		37-41.5

Committee Clerk Signature



Minutes:

Chairman Weisz reopened the hearing on HB 1327.

Rep. Hawken (37.2) I would like to add an emergency clause. I would like to also add weed and insect control, and/or survey work (discussed the language of the proposed amendment to the bill). Performing pest control or survey work and add the emergency clause.

Chairman Weisz (39.0) Everyone understand the amendment? Do we have a motion and second? Motion Made By Rep. Hawkins, Seconded by Rep. Delmore, Voice voted all yes. The amendment is the emergency clause, and should say to perform pest control or survey for a political subdivision.

Rep. Hawken (39.6) It has person in there. We have been changing to individual in every other bill? Hopefully Legislative Council will fix that.

Rep. Thorpe (40.1) Seismograph work, does that come under this? Answer is yes, it comes under survey work.

Page 2
House Transportation Committee
Bill/Resolution Number 1327
Hearing Date January 27, 2005

Chairman Weisz (40.3) Any more discussion. If not, all those in favor say I. Motion carried by voice vote.

Motion Made by Rep. Meyer Seconded By Rep. Owens Carrier: Rep. Owens

Do Pass As Amended 15 Yes 0 No 0 Absent

Closed (41.5)

✓ R
1/27/05

HOUSE AMENDMENTS TO HOUSE BILL NO. 1327 TRANS 1-28-05

Page 1, line 2, after "vehicles" insert "; and to declare an emergency"

Page 1, line 6, replace "weed control" with "pest control or survey work"

Page 1, after line 8, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 1-27-05
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1327

House Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken No Pass Amend

Motion Made By Rep. Hawken Seconded By Rep. Delmore

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) No

Absent

Floor Assignment

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

Date: 1-27-05
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1327

House Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken As Passed Amended

Motion Made By Rep Meyer Seconded By Rep Owens

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) 15 No 0

Absent 0

Floor Assignment Rep. Owens

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

REPORT OF STANDING COMMITTEE

HB 1327: Transportation Committee (Rep. Welsz, Chairman) recommends
AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS**
(15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1327 was placed on the
Sixth order on the calendar.

Page 1, line 2, after "vehicles" insert "; and to declare an emergency"

Page 1, line 6, replace "weed control" with "pest control or survey work"

Page 1, after line 8, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency
measure."

Renumber accordingly

2005 SENATE TRANSPORTATION

HB 1327

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1327

Senate Transportation Committee

☐ Conference Committee

Hearing Date 3-10-05

Tape Number	Side A	Side B	Meter #
1	x		4015-6035

Committee Clerk Signature *Mary K Monson*

Minutes:

Chairman Trenbeath opened the hearing on HB 1327 relating to the operation of all-terrain vehicles.

Representative Pam Guleson (District 26) Introduced HB 1327 at the request of the weed officers from Southeast North Dakota. One of the problems they have had with spraying for weeds is with regards to those ditch areas they cannot access with normal spraying equipment. They need to use 4-wheelers, All Terrain Vehicles, and they were told last year at the beginning of spraying season that the state law does not allow them to use All Terrain Vehicles to access those types of terrain. Some counties might be using them illegally but they would rather being operating inside the law. Two amendments were added in the House: (1) An emergency clause. (2) The original bill was written to provide "weed control" but it was thought to be too narrow. They also spray for pest control so that was included.

Senator Trenbeath said there was another bill that contained similar language, HB 1342. He asked if it would make sense to have it all inclusive, if it was revised to include acceptable language like in her bill.

Rep. Gulleason said that came up on the House side, too. She said the emergency clause was real important and also this one said "shoulder". The House thought they should keep the two separate because they wanted to move this one forward.

Senator Joel Heitkamp (District 26) Testified in support of HB 1327.

Jeff Olson (Program Manager, Dept. of Agriculture) See attached testimony in support of HB 1327.

Senator Warner said that in HB 1342 it is a different section of code. It is one section off.

He asked Mr. Olson if he could explain the discrepancy.

Jeff Olson said he was not familiar with why it was off.

Senator Trenbeath asked if it would make sense to settle on some language rather than pass both of them with language that was not identical.

Jeff Olson said he would agree. With the emergency clause on this bill it would make sense that the language in this bill matches the language in HB 1342. That way there wouldn't be any problem if both bills had to be passed to get the emergency clause. He did stress the importance of the emergency clause.

Senator Trenbeath answered Senator Warner's question by saying it looked like HB 1327, which amends 39-29-09 is amending the appropriate section. That has to do with operation of All Terrain Vehicles. The other one has to do with rules for the use of All Terrain Vehicles.

Merlin Leithold (ND Weed Control Association) See attached testimony in support of HB 1327. They also support the emergency clause.

Senator Warner asked if he thought the term parasitic plant defines weeds. What else would a parasitic plant be.

Merlin Leithold said it could, but under weed control in Chapter 63, everything is weed and pest separated. This would keep it consistent.

With no further testimony, the hearing on HB 1327 was closed.

Senator Espegard motioned to amend HB 1327 to include weed and pest for clarification purposes. **Senator Bercier** seconded the motion.

After a short discussion about a parasitic plant **Senator Espegard** withdrew his motion to amend.

Senator Espegard motioned a **Do Pass** on HB 1327. Seconded by **Senator Bercier**.

Roll call vote 5-0-1. **Passed**. Floor carrier is **Senator Bercier**.

Date: 3-10-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO 1327

Senate

TRANSPORTATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Amend

Motion Made By Sen. Espeland Seconded By Sen. Bercier

Senators	Yes	No	Senators	Yes	No
Senator Espeland			Senator Bercier		
Senator Mutch			Senator Warner		
Senator Nething					
Senator Trenbeath, Chairman					

Motion Withdrawn

Total (Yes) No

Absent

Floor Assignment

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

Date: 3-10-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO 1327

Senate

TRANSPORTATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass*

Motion Made By *Sen. Espegard* 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) 5 No 0

Absent 1

Floor Assignment *Senator Bercier*

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

REPORT OF STANDING COMMITTEE (410)
March 10, 2005 12:41 p.m.

Module No: SR-44-4627
Carrier: Bercier
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1327, as engrossed: Transportation Committee (Sen. Trenbeath, Chairman)
recommends DO PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed HB 1327 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1327

HB 1327 1-21-05-

Roger Johnson
Agriculture Commissioner
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Bismarck, ND 58505-0020

Testimony of Jeff Olson, Program Manager
House Bill 1327
January 21, 2005
9:30 a.m.
House Transportation Committee
Fort Totten Room

Chairman Weisz and members of the Transportation Committee, my name is Jeff Olson. I am a Program Manager in the Department of Agriculture. I am here to testify in support of House Bill 1327.

The North Dakota Department of Agriculture works cooperatively with county and city weed boards and also assists all vector control boards in their fight for weed and mosquito control. Weed and vector control is a vital necessity along roadways in North Dakota. County weed boards and vector boards are responsible for weed and insect control along city, county and township roads within their boundaries. The North Dakota Department of Transportation (NDDOT) is responsible for weed control along state and federal highways. The NDDOT contracts with counties or private applicators for weed control along their jurisdiction.

The county weed boards, vector boards and private contractors are increasingly using ATV's for weed and insect control activities. This is because of the maneuverability of the units and the

ability to transect areas not accessible to pickup sprayers. For the control authorities to accomplish their goals, they must be allowed to operate ATV's along the inside bank of a roadway.

This bill addresses the concerns of weed officials regarding the use of ATVs in roadways and would have to be amended to allow the use of ATV's for insect control along roadways.

Another bill (HB 1342) would allow the same use of ATV's by governmental agencies or their designees. That language amends NDCC 39-29-08, 3 and provides: "The director may permit a political subdivision or a person acting under authority of a political subdivision to operate on the inside bank or slope of a highway for the purposes of weed and insect control."

We also support that legislation. Thank you for your consideration.

HB 1327 1-21-05

Chairman Weisz
Members of the committee

I am Stanley L. Wolf, Cass County Weed Control Officer in West Fargo. I am in favor of HB 1327 and HB 1342.

The technology of weed control is constantly evolving. New developments in application equipment allow for better and more efficient placement of herbicides on the target plants. The introduction of off-highway or ATV spray application equipment is a prime example of new technology being utilized for better application of chemicals. Utilization of an ATV sprayer allows the operator to travel over terrain that is inaccessible with larger and heavier equipment. Previously the only options that were available were either backpack sprayers or dragging a hose from a spray truck. These methods can be effective but are time and labor intensive.

In Cass County we do not have the rugged terrain that some of the western counties have where ATV's have been used successfully, but we do have wet and mucky soils in our road ditches. This last year the Cass County Weed Board hired two contractors to spray the road right of ways. Both contractors utilized ATV sprayer units with one contractor using ATV's exclusively. The state, county and township road ditches were saturated in many places from frequent and heavy rains. Previous attempts to utilize spray trucks in similar conditions resulted in the spray trucks getting stuck. Frequently the ATV operators encountered standing water that could not be seen from the road shoulder through the standing grass, and thus switched off the sprayers. The ATV spray units were the only equipment that could travel in the entire road right of way, including the inslope without getting stuck.

I conducted a survey of North Dakota county and city weed boards and several are currently utilizing ATV sprayers to control weeds in the road right of ways. More weed boards would utilize ATV sprayers if the law is amended. Allowing the use of ATV's in the entire road right of way for appropriate weed and insect control and survey work will make control efforts more efficient and effective.

Thank you for considering HB 1327 and HB 1342

Stanley L. Wolf
Cass County Weed Control Officer
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County list of ATV use on Road Right of Ways

survey taken December 2004

County	WCO	ATV in Right of Way		
		Use	Do not use	Would use
Adams	Howard Nelson			
Barnes	Jim McAllister	1		
Benson	Tim Finley			
Bottineau	Terrence Volk	1		
Bowman	Roger Wickstrom			
Burke	Dan Folske	1		
Burleigh	Gary Hartman			
Cass	Stan Wolf	1		
Cavalier	James Olson			
Dicky	Roger Lubines	1		
Divide	Gary Smithberg			
Dunn	Marilyn Duttonhefner			
Eddy	Melinda Martin			
Emmons	Bill Scherr		1	1
Foster	Nate Monson			
Golden Valley	Brad Ross			
Grand Forks	Joel Anderson			
Grant	Merlin Leithold			
Griggs	John Swenson			
Hettinger	Paul Schwartz		1	1
Kidder	Neil			
LaMoure	James Riddle			
Logan	Bobby Bucholtz	1		
McHenry	Joe Harman			
McIntosh	Donald Pfeifer			
McKenzie	Odin Heim	1		
McLean	Vance Tomilson			
Mercer	Brad Seifert			
Morton	Wayne Carter			
Mountrail	Jim Hennessy			
Nelson	Richard Urvand			
Oliver	Richard Schmidt			
Pembina	Kadie Herseth			
Pierce	B.R. Hornstein			
Ramsey	Roger Gunderson			
Ransom	Monty Haugen			
Renville	Dan Dew			
Richland	Jim Anderson			
Rolette	Mark Miller			
Sargent	Richard Anderson	1		
Sheridan	Myron Dieterle			
Sioux	Victor Kraft			
Slope	Joan Lorge	1		
Stark	Diane Allmendinger			
Steele	Gerald LeClerc			

County list of ATV use on Road Right of Ways

survey taken December 2004

		ATV in Right of Way		
County	WCO	Use	Do not use	Would use
Stutsman	Bill Ragan	1		
Towner	George Freund			
Traill	Ronald Peterson			
Walsh	Brent Nelson			
Ward	Derrill Fick			
Wells	Richard Maine		1	1
Williams	Jim Basaraba			
Bismarck	city John Arlien	1		
Devils Lake	city Myron Asleson			
Dickinson	city Dennis Smith			
Fargo	city Dennis Fowler	1		
Grand Forks	city Wallace Helland			
Mandan	city Steve Nadello			
Trrtle Mtn	res Troy Davis			
totals		12	3	3

HB 1327 1-21-05

NORTH DAKOTA WEED CONTROL ASSOCIATION

TESTIMONY ON HB 1327

January 21, 2005

HOUSE TRANSPORTATION COMMITTEE

BY

MERLIN LEITHOLD
LOBBYIST # 384

Good morning Mr. Chairman, members of the Committee. For the record, my name is Merlin Leithold. I am the area director for the ND Weed Control Association.

HB 1327 would allow all terrain vehicle use for controlling noxious weeds in road ditches.

The majority of county weed boards use some type of ATV's in their operations. They make weed control more efficient. With the use of ATV's, soon will be gone the days of dragging a hose 300 feet into a ditch, and then pulling it 500 feet along that ditch. Soon will be gone the days of dangerously parking the spray truck on the edge of a roadway, while pulling that hose out to spray. The spray trucks will still be used for spraying road sides, hoses will still be pulled. But, the use of ATV's will cut down on the majority of those uses. Spray trucks will be able to be parked on approaches and used to fill those ATV's.

This bill would legalize the use of ATV's in those road ditches.

You will also here HB 1342. That bill deals with some of these same issues, therefore we support both bills, and would support any ways of incorporating both bills into one, by whatever means it takes.

Thank-you

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Testimony of Jeff Olson, Program Manager
House Bill 1327
March 10, 2005
9:45 a.m.
Senate Transportation Committee
Lewis and Clark Room

Chairman Trenbeath and members of the Transportation Committee, my name is Jeff Olson. I am a Program Manager in the Department of Agriculture. I am here to testify in support of House Bill 1327.

The North Dakota Department of Agriculture works cooperatively with county and city weed boards and also assists all vector control boards in their fight for weed and mosquito control. Weed and vector control is a vital necessity along roadways in North Dakota. County weed boards and vector boards are responsible for weed and insect control along city, county and township roads within their boundaries. The North Dakota Department of Transportation (NDDOT) is responsible for weed control along state and federal highways. The NDDOT contracts with counties or private applicators for weed control along their jurisdiction.

The county weed boards, vector boards and private contractors are increasingly using ATV's for weed and insect control activities. This is because of the maneuverability of the units and the ability to transect areas not accessible to pickup sprayers. For the control authorities to accomplish

their goals, they must be allowed to operate ATV's along the inside bank of a roadway. We also support the Emergency clause that would allow control authorities to do work prior to August 1, 2005.

Another bill (HB 1342) would allow the same use of ATV's by governmental agencies or their designees. That language amends NDCC 39-29-08, 3 and provides: "The director may permit a political subdivision or a person acting under authority of a political subdivision to operate on the inside bank or slope of a highway for the purposes of weed and insect control."

We also support that legislation. Thank you for your consideration.



NORTH DAKOTA WEED CONTROL ASSOCIATION

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Senate Transportation Committee

Thursday, March 10th, 2005

Testimony on HB 1327

By Merlin Leithold #384

Good Morning Mr. Chairman, members of the Senate Transportation Committee.

For the record, my name is Merlin Leithold. I am the south central area director for the ND Weed Control Association. I am also the weed officer from Grant County.

HB 1327 would allow all terrain vehicle use in road ditches. This bill was amended in the House Transportation Committee, adding pest and survey work. Unfortunately, weed control work was deleted. That was the original intent of the bill. It has been said that pest control also means weed control. It doesn't. When considering changing the law, one must make sure that the law states what is intended, not how we may interpret the law.

Chapter 4-33, in the century code, defines pest, and I quote,

"Pest means any invertebrate animal, pathogen, parasitic plant, or similar organism which can cause damage to a plant or part thereof or any processed, manufactured or other product of plants."

Therefore I ask you to consider amending HB 1327 to adding the word "weed," in front of pest on line 6.

Weed departments in the state are regularly using ATV's in their roadside operations. Pulling 300 feet of sprayer hose into a ditch and dragging it 100 yards or more, may soon be a thing of the past.

We ask you to amend HB 1327 to allow weed control in road ditches.

HB 1342, which you will hear next, also adds a paragraph to the century code. We support both bills, and would be in support of combining both bills, if you so desire.

Thank-you