

2009 HOUSE TRANSPORTATION

HB 1134

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1134

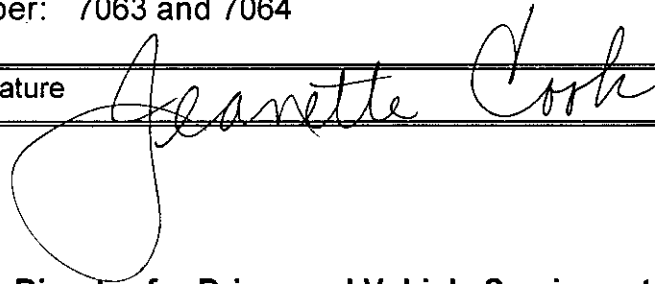
House Transportation Committee

☐ Check here for Conference Committee

Hearing Date: 01/15/09

Recorder Job Number: 7063 and 7064

Committee Clerk Signature



Minutes:

**Linda Butts, Deputy Director for Driver and Vehicle Services at the DOT**, introduced and provided testimony for HB 1134. Testimony attached. (#1) The bill clarifies language to allow an officer to mail the temporary operator's permit to a resident operator whether or not the person is a resident of the officer's jurisdiction.

**Representative Weiler:** Are they currently mailing those out?

**Linda Butts:** Law enforcement is here and can speak to that.

**Mike Erhardt, North Dakota Highway Patrol:** Depending on the type of test, we currently deliver a breath test in person. However, as far as a blood test, we have to follow up, locate that person, and do a hand delivery to the person. This will allow us to mail it.

**Chairman Ruby:** To clarify, right now, do you have to track the person down to deliver the test, or are you following this procedure already?

**Mike Erhardt:** Out-of-state residents we mail, in-state residents we track them down.

**Representative Potter:** Is that within your jurisdiction or not, that you personally have to track them down, or just *someone* has to track them down?

**Mike Erhardt:** Just someone has to do it. An example would be, someone from Minot is arrested in Fargo. The officer in Minot may send it to someone in Fargo to do that.

**John Olson representing the North Dakota Peace Officers Association** testified in support of HB 1134. Testimony attached. (#2) His association requested a Do Pass on HB 1134.

**Representative Delmore:** Is the mail time considered in the length of time allowed in this bill?

I believe it is a great bill and will save a lot of time. I just wanted to know if the time element was considered.

**John Olson:** There are always problems with the mail. It doesn't only apply here. We just have to rely on it the best we can. I think that if there is an instance where someone didn't get their mail, law enforcement can handle that. By in large, I think it is taken into account. The effective delivery of that temporary permit is counted on the date that it is mailed. I think that there is leeway given for the recipient to receive it.

**Representative Delmore:** My point is, if someone hands me something, then I know I have it. If she sends it in the mail, whether I got it or not, it could be a convenient excuse for someone to say that it never reached me.

**John Olson:** In our rules of civil procedure we drop it in the mail; and we add three days for the time of delivery. We hope that they get it.

**Chairman Ruby:** Once someone pulls a license, active or inactive, it can be easily checked, if they don't have it in hand. I know you are supposed to have it in hand, but if you have this mail problem, it can still be checked.

**John Olson:** I hate to even mention it because it is such an awful idea. The alternative is certified receipt and delivery. Those things sit around the post office forever because if they know what it is, they won't come and get it.

**Lt. Mike Arnold, Bismarck Police Department:** We are in favor of this bill. We do currently mail out all of our jurisdictions blood results to people. We have not had a problem with them. This would just make it more convenient. When people work shift work, they may often be off for a few days. They pick them up and put them in a box. The results may sit in a box for two to three weeks waiting to be served in a local jurisdiction as the officer is trying to get a hold of this person. This would speed up the process. This bill would give three days to get there and three days to respond back to get their license back to the agency. There is a twenty day grace period before their license is suspended. They are issued a temporary permit. Within that time period you are looking at approximately twenty-three days. If they have any questions and concerns they can contact the agency or DOT to get something straightened out as far as an extension on their license. This bill would speed up the process for all the jurisdictions.

**There was no opposition to HB 1134.**

The hearing was closed.

**Representative Delmore moved Do Pass on HB 1134.**

**Representative Potter** seconded the motion.

A roll call vote was taken(#1). **Yea 14 Nay 0 Absent 0**

**Representative Delmore will carry HB 1134.**

**Chairman Ruby:** Representative Griffin noted that some changes need to be made to HB 1134.

**Representative Weiler:** Mr. Chairman, I move that we reconsider our actions on Do Pass on HB 1134 .

The motion was seconded.

**A voice vote was taken with all in favor.**

**Representative Griffin** explained the changes. See amendment, attachment #3. This is in reference to when a blood test, saliva, or urine test happens. The law enforcement wouldn't normally take your license right away; they would wait until you got a court notice. Then you would have three days to mail your license in.

**Representative Griffin moved to remove the language on page two and three as amended in HB 1134.**

**Representative R. Kelsch** seconded the motion.

**Chairman Ruby** asked if everyone understood the language that is being removed. The changes were repeated.

**A voice vote was taken with all in favor.**

**Representative Weiler** moves a **Do Pass** on HB 1134 as amended.

**Representative Weisz** seconded the motion.

A roll call vote was taken. **Aye 14 Nay 0 Absent 0**

**Representative Delmore will carry the bill.**

V/R  
1/15/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1134

Page 2, line 22, overstrike "Within three days after the person receives the"

Page 2, overstrike line 23

Page 2, line 24, overstrike "operator's license to the law enforcement agency that made the  
arrest."

Page 3, line 1, overstrike "and the person's operator's license taken under"

Page 3, line 2, overstrike "subsection 1 or 2"

Renumber accordingly

Date: 1-15-09

Roll Call Vote #: 1

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**

BILL/RESOLUTION NO. 1134

House TRANSPORTATION Committee

☐ Check here for Conference Committee

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

Action Taken ☒ Do pass ☐ Don't Pass ☐ Amended

Motion Made By Delmore Seconded By Potter

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman	✓		Representative Delmore	✓	
Rep. Weiler - Vice Chairman	✓		Representative Griffin	✓	
Representative Frantsvog	✓		Representative Gruchalla	✓	
Representative Heller	✓		Representative Potter	✓	
Representative R. Kelsch	✓		Representative Schmidt	✓	
Representative Sukut	✓		Representative Thorpe	✓	
Representative Vigesaa	✓				
Representative Weisz	✓				

Total Yes 14 No 0

Absent 0

Bill Carrier Delmore

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

Date: 1-15-

Roll Call Vote #: 2

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**

BILL/RESOLUTION NO. 1134

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 1134

Action Taken ☒ Do pass ☐ Don't Pass ☒ Amended

Motion Made By Weiler Seconded By Weisz

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman	✓		Representative Delmore	✓	
Rep. Weiler - Vice Chairman	✓		Representative Griffin	✓	
Representative Frantsvog	✓		Representative Gruchalla	✓	
Representative Heller	✓		Representative Potter	✓	
Representative R. Kelsch	✓		Representative Schmidt	✓	
Representative Sukut	✓		Representative Thorpe	✓	
Representative Vigasaa	✓				
Representative Weisz	✓				

Total Yes 14 No 0

Absent 0

Bill Carrier Delmore

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



**REPORT OF STANDING COMMITTEE**

**HB 1134: Transportation Committee (Rep. Ruby, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1134 was placed on the Sixth order on the calendar.

Page 2, line 22, overstrike "Within three days after the person receives the"

Page 2, overstrike line 23

Page 2, line 24, overstrike "operator's license to the law enforcement agency that made the arrest."

Page 3, line 1, overstrike "and the person's operator's license taken under"

Page 3, line 2, overstrike "subsection 1 or 2"

Renumber accordingly

2009 SENATE TRANSPORTATION

HB 1134

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. Engrossed HB 1134

Senate Transportation Committee

☐ Check here for Conference Committee

Hearing Date: February 27, 2009

Recorder Job Number: 9856

Committee Clerk Signature

*Jody Hauge*

Minutes:

**Senator Gary Lee** opened the hearing on Engrossed HB 1134 relating to mailing of report and notice forms for driving under the influence.

**Linda Butts**, Deputy Director for Driver and Vehicle Services at ND Department of

Transportation testified in support of Engrossed HB 1134. Written Testimony #1.

**Senator Nething** asked what the problem was.

**Linda Butts** there is some confusion regarding page 2, line 16, whether the officer can mail the temporary operator permit to the driver if the driver lives in the same jurisdiction as the officer. This was brought to the Department of Transportation by the Attorney General's Office and recommended to fix this. In lines 22-24 it removes the old way of how it was done.

**Senator Lee** currently it is uncertain whether the arresting officer in the same jurisdiction of the person being arrested or ticketed can take their license and send them a temporary permit.

**Linda Butts** that is correct. It is questionable and it has been challenged.

**Steve Kilde**, Bismarck Police Department testified in support of Engrossed HB 1134. The original intent of the law was to allow law enforcement the ability to mail those results out to people rather than having to do a personal service. Mail is a time saving thing for law enforcement.

**Senator Fiebiger** asked if this has been challenged once or has it become an ongoing issue with various law enforcement personal.

**Steve Kilde** once it is challenged and successfully challenged one time then it catches on and becomes an ongoing problem. I don't know how many times it has been challenged successfully.

**John Olson** representing the ND Police Officers Association testified in support of Engrossed HB 1134.

No Opposing testimony.

**Senator Nething** moved a Do Pass.

**Senator Nodland** seconded.

Roll call vote: 5-0-1.

**Senator Nething** is the carrier.

Date: 2-27-09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. Engrossed AB 1134

Senate Transportation

Committee

☐ Check here for Conference Committee

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

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Other

Motion Made By Senator Nething Seconded By Senator Nodland

Senator	Yes	No	Senator	Yes	No
Chairman Senator Gary Lee	<u>✓</u>		Senator Tom Fiebiger	<u>✓</u>	
Senator George Nodland	<u>✓</u>		Senator Richard Marcellais		
Senator Dave Nething	<u>✓</u>		Senator Tracy Potter	<u>✓</u>	

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Nething

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

**REPORT OF STANDING COMMITTEE**

**HB 1134, as engrossed: Transportation Committee (Sen. G. Lee, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1134 was placed on the Fourteenth order on the calendar.**

2009 TESTIMONY

HB 1134

1/15/09  
Attach #1

**HOUSE TRANSPORTATION COMMITTEE**  
**January 15, 9:00 a.m. Ft. Totten Room**

**North Dakota Department of Transportation**  
**Linda Butts, Deputy Director for Driver and Vehicle Services, NDDOT**  
**HB 1134**

*Same  
given to  
Senate.*

Good morning, Mr. Chairman and members of the committee. I'm Linda Butts, Deputy Director for Driver and Vehicle Services at the NDDOT. Thank you for giving me the opportunity to present information to you today.

The North Dakota Department of Transportation pre-filed House Bill 1134 as an agency bill. This bill is a Drivers License bill that will amend and clarify legislation passed during the 2007 session relating to the ability of the arresting office to mail the temporary operator's permit to a resident (instate) operator.

There has been some confusion regarding the instance whether the officer can mail the temporary operator permit to the driver if that driver lives in the same jurisdiction as the officer.

This amendment creates a new subsection 3 in clarifying that law enforcement officers may mail the temporary operator's permit whether or not the person is a resident of the officer's jurisdiction. This was the original intent; however, it appeared somewhat ambiguous. This change would clear up any possible inconsistency in the law.



Attachment #2

**Testimony of North Dakota Peace Officers Association Supporting HB 1134**

**January 15, 2009**

Good morning Chairman Ruby and members of the House Transportation Committee. My name is John Olson; I am here representing the North Dakota Peace Officers Association in support of HB 1134.

HB 1134 allows law enforcement to mail a temporary operator's permit to a person whether or not the person is a resident of the area in which the law enforcement officer has jurisdiction, in DUI and related cases. The North Dakota Peace Officers Association supports this measure because it allows law enforcement to employ the postal service for delivery rather than having an officer personally deliver the temporary operator's permit. The North Dakota Peace Officers Association believes that the measure is much more cost effective than the current law, and will create better use of resources for the law enforcement agencies.

I respectfully request that you vote a DO PASS on this bill. Thank you for your consideration.

For further information, contact:

John M. Olson  
Lobbyist No. 142  
North Dakota Peace Officers Association  
(701) 222-3485