

2009 HOUSE TRANSPORTATION

HB 1470

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1470

House Transportation Committee

☐ Check here for Conference Committee

Hearing Date: 02/12/09

Recorder Job Number: 9310

Committee Clerk Signature

Jeannette Cook

Minutes:

Representative Kilichowski, District 16, introduced HB 1470. The purpose of the bill is to make the blood alcohol level consistent at .08 in North Dakota.

Representative Weiler: Are there any statistics on the number of violations statewide for boating, hunting, or snowmobiling under the influence?

Representative Kilichowski: I do not have any numbers. Game and Fish may be able to answer that.

Senator Mathern, District 11 in Fargo, spoke in support of HB 1470. He explained that he signed on this bill because of two experiences he had this past year.

- He had driven across a lake and needed to ask directions. He was surprised to find that all of the fish houses that he stopped at had a lot of liquor and the occupants didn't seem to know what was going on any more. It was difficult to get directions, and most of the people thought there was no alcohol violation issue. He felt that part of the problem is the different levels of BAC, and it adds confusion to the public.
- Last year he went hunting with a friend. He was also surprised how many of people were out there driving around. It seemed dangerous and that it would be easy to shoot each other.

He feels that the BAC level for a violation should be consistent, no matter what activity is involved.

Chairman Ruby pointed out that if you are driving in your vehicle while hunting, the BAC level is still .08. If a person is in a fish house and inebriated, as long as they are not driving it, it is not a violation.

Senator Mathern: I just think there is misinformation, and it would be helpful if the public policy is clear, and it applies to any activity where we are in contact with the public.

No opposition for HB 1470.

Representative Vigesaa asked Game and Fish if this issue was visited when driving went down to .08, that this should be changed at that time.

Robert Timian, Chief Game Warden of the state Game and Fish Department: It wasn't questioned at that time. I believe that it was two sessions ago, when there were some changes in the BUI bill itself. At that time it was brought up by the Senate Transportation Committee. It wasn't reduced at that time because we weren't under the same federal mandate as the Highway Patrol.

Representative Weiler: Do you have any numbers on the violations statewide for boating, hunting, and snowmobiling under current law?

Robert Timian: We do have those numbers. I didn't bring them with me. We don't deal with numbers in the same volume as they do with vehicle DUI's. We probably write about 20 to 30 BUI's and HUI's a year maximum. Most of them are here in the Bismarck/Mandan area on the Missouri River.

Chairman Ruby: Does your agency enforce the snowmobile regulations?

Robert Timian: The snowmobiles are under the North Dakota Parks and Recs code.

Chairman Ruby: Are you finding that when you pull someone over for BUI, that they got off because it was .10 rather than .08?

Robert Timian: If people think it is .08, they are erroring on the side of caution. They will try to stay below .08. We have had some cases where a person was checked by our officer, and the person was found to be less than .10, but probably in the .08 range. We tell them that they are legal on the boat, but when they get on shore, they would not be legally able to drive home. It is not a common occurrence, but it has happened.

Representative R. Kelsch questioned the language about skiing while intoxicated.

Representative Delmore: Do you have any statistics on hunting violations? It is a concern that if someone is intoxicated while out there hunting with a rifle.

Robert Timian: As far as hunting under the influence, the numbers are very low.

There was no other testimony on HB 1470.

The hearing was closed on HB 1470.

Chairman Ruby asked the committee's wishes on HB 1470.

There was general review within the committee.

Representative Weisz: For the committee's information, we did redo the DUI laws, and at that time we specifically left it at .10. It wasn't an oversight; it was decided to leave it there. The rationale was that it is a bit different when you are out in a boat and don't have all the issues that are associated with driving on the road. It was not federally mandated, and .1 was a reasonable level, so it was left at .1 at that time.

Robert Timian: There have been studies done on boating. Physiologically with the wave action and the sun shining, that alone changes your ability to react. Alcohol would also enhance your inability to react. So, from that point of view the use of alcohol would be enhanced rather than reduced.

The committee reviewed the last time this issue was raised, and the reasoning for leaving it at that time.

Representative Weiler moved a **Do Not Pass** on HB 1470.

Representative R. Kelsch seconded the motion.

Representative Gruchalla: I do deer hunt and occasionally fish. I have seen the results of ... I am not sure that even .08 is even a safe level for a lot of those events. I am going to oppose the motion.

Representative Potter: The hunting worries me, shooting while using alcohol.

Representative R. Kelsch: You can probably make the law say zero tolerance for alcohol out in the field, and it will still happen with the hunters and boaters. I think the budget needs to be beefed up for Fish and Game to ensure that there are more officers in the field or on the water, so they can catch the true violators. I don't think that lowering the legal limit to .08 will make it any safer.

Representative Schmidt: The house sponsor of this bill comes from an area where there are a lot of snowmobiles. That request came to him. I think that it is a request that we should heed because I have been up there, and it is wild. I have to support this bill.

Representative Weiler: I think the reason that we passed the .08 for driving in 2003 was simply due more to federal funding than anything else. This does not affect the federal funding. I agree with Representative R. Kelsch that this will not stop people from drinking. Also, when Robert said that they have about 20-30 violations per year, to me that is pretty low. I don't think this is a big problem.

Representative Sukut: I would agree that changing this will have little effect as to what goes on in the field. But, the original testimony was that the sponsor would like to bring the BAC into conformance with what already exists in this section of code. I am looking at it from that

aspect; that it would be right to have it all .08 all the way through. I am going to support the bill.

Representative Weisz: I would disagree with Representative Schmidt that we have a lot of drunk snowmobilers on the trails. I think that a lot of snowmobile drivers don't even know that there are any restrictions. If we change to .08, then everyone will know that what the level is.

Representative Gruchalla: In Minnesota if you get picked up for SUI or HUI, it doesn't matter what it is, you still lose your driver's license. North Dakota is still very lenient. The conformity issue is a big issue to me. It is easier to have one level. If this discourages people from drinking while hunting and boating, I think it is worthwhile.

A roll call vote was taken on HB 1470. **Aye 7 Nay 5 Absent 2**

The motion passed.

Representative Weiler will carry HB 1470.

Date: 2-12-09

Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1470

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Weiler Seconded By Kelsch

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

Total Yes 7 No 5

Absent 2

Bill Carrier Weiler

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

REPORT OF STANDING COMMITTEE

HB 1470: Transportation Committee (Rep. Ruby, Chairman) recommends DO NOT PASS
(7 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). HB 1470 was placed on the
Eleventh order on the calendar.