

Transportation Committee

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Roughrider Room, State Capitol

North Dakota Department of Transportation

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Drivers and motor vehicle regulations study

Mr. Chairman and members of the committee, I'm Francis Ziegler, Director of the North Dakota Department of Transportation (DOT). I will discuss the proposed legislative study for drivers and motor vehicle regulations as requested by the committee.

Title 39 Legislative Study

Over the past few weeks, the DOT and Highway Patrol (HP) have met several times and reviewed many sections of North Dakota Century Code, Title 39. During this process, DOT and HP began to understand what a momentous task it will be to evaluate and study this entire Title.

Pursuant to guidance from Tim Dawson and our discussion with the Highway Patrol, we collectively agreed that the best way to approach this was to identify some of the key areas and provide input through separate agency reports. The attached report was created to provide you with an overview of areas that may need to be researched as part of the legislative study.

As you will see when you look at DOT's document it covers several areas including:

- Title and Registration Issues
- General Language Clean-Up
- Operator's License Fees
- Driver Record Privacy
- Issues related to size and weight of heavy vehicles.

The DOT understands that the Advisory Commission on Intergovernmental Relations is also reviewing Title 39 in reference to motor vehicle permit fees in the truck size and weight section.

The DOT's report is attached to this testimony. The Highway Patrol will present their report next.

This concludes my testimony. Thank you for the opportunity to appear before the committee today.

North Dakota Century Code, Title 39 Legislative Study

North Dakota Department of Transportation Review 09/21/2011

TITLE AND REGISTRATION ISSUES: NDCC CHS. 39-01, 39-04, 39-05, 39-18, 39-24, 39-29

Special Mobile Equipment (SME): NDCC § 39-01-01(74), 39-04-18(2)(a), 39-05-02.2(7)

Discussion: Special Mobile Equipment (SME) is currently exempt from ND's titling and registration requirements. Some out of state SME's are being titled and licensed in North Dakota at the request of the registrant typically because that equipment needs to be licensed in other states where the registrant is gainfully employed. Some lending institutions are requiring SME to be licensed and titled before they will loan money for this type of equipment. Damage is being done to a roadway by SME just like it is by a truck weighing the same amount. Some SMEs are no longer being used incidentally on our roadways. Neighboring states (MT, MN, SD & WY) require ND residents to pay SME fees when they are gainfully employed there. Law enforcement would also have an easier time tracking and issuing oversize/overweight permits if SME's were registered.

Question: Should SME's be registered and taxed? If so, at what rate? Should there be exemptions?

Current Motor Vehicle Registration Fees for Heavy Vehicles: NDCC § 39-04-19

Discussion: North Dakota's fees for heavy vehicles are some of the lowest in the country.

2011 Large Truck Fee Comparison

	22,000 lbs	42,000 lbs	62,000 lbs	82,000 lbs	105,500 lbs
ND	\$139.00	\$440.00	\$755.00	\$1,059.00	\$1,792.00
SD	\$290.00	\$690.00	\$1,090.00	\$1,497.00	\$1,977.00
MN	\$270.00	\$595.00	\$1,015.00	\$1,810.00	\$2,410.00
MT	\$214.00	\$539.00	\$835.00	\$1,317.00	\$1,823.00

The state has seen an exponential growth in this type of traffic. Roads are degrading faster than NDDOT, counties and townships can repair them due to the increased number of heavy vehicles.

Question: Is the current fee structure appropriate?

Title Brands from Other States: NDCC § 39-05-20.2, 39-05-20.3, 39-05-20.4

Discussion: Other states have junk, rebuilt, water damaged, parts only and other similar brands. These brands indicate that the vehicle is no longer deemed safe to operate on that state's roads. When such a vehicle arrives in ND, the only brand the state can give it is "Salvaged," which under certain circumstances may be put back on the road. HP currently inspects vehicles to determine if they are roadworthy, but they lack the equipment to check electronics and computer systems, sensing devices, brake and transmission systems for water damage, etc. The result is that vehicles deemed not roadworthy in other states are able to come to ND and be titled and registered so long as the vehicle passes a basic inspection.

Question: Should the focus be on adding new brands and/or changing the inspection process? Should the automotive industry be asked if they would be willing to conduct an upgraded inspection? Should there be a certification process to become an inspector?

Mobile Home Dealer Regulation: NDCC § 39-18

Discussion: A mobile home is not a motor vehicle; it is real estate (a residence) once it is affixed to land. Manufactured homes and modular homes are also residences, yet by law we must title them. Mobile homes are defined in NDCC § 57-40.3 and 57-55.

Question: Who should be responsible for titling homes that become affixed to land?

Snowmobile Registration: NDCC § 39-24-02

Discussion: ND is one of 14 states that title snowmobiles; all states register snowmobiles, however.

Question: Is it necessary to title snowmobiles?

Off-Highway Vehicles: NDCC § 39-29-01

Discussion: New types of vehicles are created every year. Two general examples are Argos and Snowbears. At first glance many of these vehicles may appear to be off-highway vehicles. However, the off-highway vehicle statute is very specific and neither an Argo nor a Snowbear appear to fit cleanly within one of the definitions for off-highway vehicles. Neither vehicle appears to fit cleanly into any definition in Title 39.

Question: Should vehicles that don't fit cleanly into any category now in Code, such as the Argo and Snowbear, be registered or titled in North Dakota? Is the current statutory scheme defining and separating various types of vehicles appropriate? Should more discretion be given to the Director so the NDDOT can adapt to new vehicles without seeking new legislation each time?

GENERAL CLEAN-UP MATERIAL: NDCC CHS. 39-05, 39-06, 39-08, 39-19

Reciprocity: NDCC § 39-05-03

Discussion: NDCC § 39-05-03 was not amended when § 39-05-2.2(4) was amended last session. There is conflicting language in these two sections for states without a reciprocal excise tax agreement with North Dakota. These states include Montana, Alaska, Oregon, New Hampshire and Delaware

Question: Language found in 39-05-2.2(4) should be added to 39-05-03 so the two sections are consistent.

Unified carrier registration system: NDCC § 39-19-06

Discussion: The program no longer exists. It has been replaced by (UCR) Unified Carrier Registration Plan. Therefore the language in this section needs to be updated

Question: Remove old/out-dated language from the NDCC as shown here crossed out:

~~.for motor carriers authorized by subtitle C of the Safe, Accountable, Flexible, Efficient Transportation Act of 2005 [Pub. L. 109-59; 119 Stat. 1761; 49 U.S.C. 14504a] and by applicable rules and regulations. In determining whether to adopt rules as permitted by this section, the director shall consider the costs and benefits to the state of participating in the unified carrier registration program.~~

Single state insurance registration system: NDCC § 39-19-06.1

Discussion: The program no longer exists. It has been replaced by (UCR) Unified Carrier Registration Plan. Therefore the language in this section needs to be updated

Question: Remove old/out-dated language from the NDCC as shown here crossed out:

~~**39-19-06.1. Single state insurance registration system.**~~

~~If the Congress of the United States authorizes a continuation of state participation in the single state insurance registration system for motor carriers, the director of the department of transportation may continue to collect registration fees until the extension authorization expires.~~

DUI/DUS plate retention: NDCC § 39-08-01(3)

Discussion: Statute states plates are impounded for a second or subsequent DUI/DUS offense and kept for the duration of the period of suspension or revocation of the offender's driving privilege. Motor Vehicle is tasked with storing these plates. In most cases the plates in Motor Vehicle's possession are never again used. Storage space and staff is limited to oversee this practice.

Question: Should the process be changed so the plate is permanently retired at the court hearing?

General Language Cleanup Related to Language and Organizational Complexities

Discussion: All the chapters relating to driving have language complexities that could be cleaned up in a way as to not lose intent or application, but improve understanding. Some chapters have so many items referenced in multiple locations that without time consuming research, the connectivity and intent of some statutes can be misunderstood.

Recently the NDDOT submitted legislation that was approved by the legislature that pulled references to the donor registry from several locations and put them into one paragraph, providing an easier reference and eliminating any confusion for its application.

Recently, as part of the GDL process, the NDDOT updated and organized several paragraphs that made it easier to understand. NDCC 39-06-04, Instruction Permit was modified; NDCC 39-06-07.2, Medical Advice for the Director was modified; and NDCC 39-06-17 was modified. These actions help make the statute easier to read, but there is more we could do.

NDCC 39-06-14 is a very long paragraph that covers several topics. This is a classic example of a paragraph that needs to be re-worked to improve clarity and make it easier to understand.

Question: This issue is a time consuming issue to resolve, but if completed would provide a clearer layman's understanding of the law. If this should be accomplished, what is the preferred means?

OPERATOR'S LICENSES: NDCC chs. 39-06, 39-06.2, 39-16

Driver's License Fees

Discussion: The Driver's License Division is no longer covering its expense with the current fee structure. These fees have been in place since the 80's. The division is losing approximately \$3 with each license/ID issued.

Question: Should fees for licensing be increased to make the division self-sustaining with collected fees?

Fee Consolidation: NDCC chs. 39-06, 39-06.2, 39-16

Discussion: Currently it requires review of multiple chapters of the title to find all of the fees associated with licensing. Creating a single paragraph with a table that lists all fees would make it an easier way for everyone to review the fees we charge.

39-06-03.1. Nondriver photo identification card issued by director - Release of information - Penalty - Public awareness.

39-06-07. Application for license or instruction permit.

39-06-13.1. Fee for examination of applicants.

39-06-14. Licenses issued to operators - General - Classified driver's license.

39-06-18. Duplicate certificates.

39-06-19. Expiration of license - Renewal.

39-06.2-07. Commercial driver's license qualification standards.

39-06.2-08. Application for commercial driver's license.

39-06.2-09. Commercial driver's license.

39-06.2-09.1. Nonresident commercial license.

39-06.2-13.1. Driving record information to be furnished.

39-16-03. Driving records - Not admissible in evidence - Fee.

Question: Should the fees be consolidated into one table and referenced throughout the chapter?

DRIVER RECORD PRIVACY: NDCC ch. 39-33

Privacy Protection: NDCC § 39-33

Discussion: This chapter provides some clarity on what personal information is and what we should protect. However, there are requests that seem to skirt the intent of keeping driver's license information secure, private and protected. For example, we received a request from a school district for access to all of our statewide data in order for them to be able to forecast enrollment trends and plan budgets for their district. Their claim is that under NDCC 39-33-05 (5) research activities, they are allowed to download all personal information from our database, minus the photo, for this purpose.

Question: Should additional restrictions be placed on personal information to limit the increasing number of requests to release information, or should certain additional limits be placed on certain personal data?

ISSUES RELATED TO SIZE AND WEIGHT OF HEAVY VEHICLES: NDCC chs. 39-12, 39-15, 39-17

Truck Size and Weight Issues: NDCC chs. 39-12, 39-15, and 39-17

Discussion: Varying size and weights across state lines can cause confusion and problems for the trucking industry. See NDCC § 39-12-05 & 39-12-05.3. Establishing consistency in the state's truck size and weight laws by making the non-interstate system section of law consistent with the interstate section of law would be a solution. The change would make the law easier for industry to understand since the interstate and non-interstate laws would be consistent. This would make it easier for law enforcement officers to enforce by not having two standards. A step toward some uniformity between adjacent states would also be made.

Question: Should the state establish a consistent truck size and weight law between Interstate and non-Interstate systems?

Discussion: The state of Minnesota has had a relevant evidence law in place for a number of years that may have merit for the state of North Dakota. This law allows law enforcement to prove that vehicles are traveling overweight by use of records versus having to weigh them. Additional enforcement tools are needed in the state, especially in areas of oil development. The extraordinary use fees in NDCC § 39-12-17 may need to be reviewed as well.

Question: Should the state adopt a law similar to Minnesota's allowing enforcement from scale weight to protect the state's road infrastructure? And should the overweight fee structure referred to in NDCC § 39-12-17 be addressed at this time?