

House Judiciary Committee  
Chairman Larry Klemm  
Monday, January 25, 2021 @ 3:00

## **HB 1176 — Cancellation of a Minor's Driver's License:**

Current North Dakota law requires the Director of the Department of Transportation to cancel the operator's license of a minor who accumulates more than five demerit points, or for a minor who commits any alcohol or drug-related offense while operating a vehicle. This bill keeps the requirement for point cancellation, but gives the juvenile court the authority to determine whether an alcohol or drug-related offense warrants cancellation. The bill does not change the Director's obligation to suspend or revoke driving privileges for a minor accused of impaired driving.

### NOT EVERY OFFENSE IS THE SAME

Currently, every drug and alcohol offense is treated the same, irrespective of circumstances or severity. No one disagrees that a license should be cancelled in circumstances where the offense involved alcohol or drugs and created risk to others. But not every alcohol or drug related offense meets this standard. For example:

- Unlawful possession of alcohol by a person under 21 years of age may be proven by actual or constructive possession. Mary, a 17-year old, is called by friends to give them a ride. After picking them up, Mary learns the friends have been drinking, and brought a backpack full of beer. Police stop Mary for a traffic violation, investigate, and learn all in the car are under 21. All occupants are cited for possessing the alcohol, even though several, including Mary, did not drink. After admitting her violation in juvenile court, authorities report the incident, and the Director cancels Mary's driver's license.
- Under North Dakota law, the term "offense" includes traffic violations. Seventeen year old Luke agrees to drive his uncle home after a family gathering. The uncle brings an open beer for the trip, over Luke's objection. Under N.D.C.C. § 39-08-18, a driver may be cited for an open alcohol receptacle in the vehicle, even if possessed by others. Following a traffic stop, Luke's citation and payment of his fine, the Director is required to cancel Luke's driving privileges.

The examples are endless. Current law casts a net far too wide, resulting in cancellation of licenses for minors whose conduct is wrongful who did not create a risk as by driving. This bill permits cancellation in appropriate cases—those in involving alcohol or drugs and creating risk to others.

### JUVENILE AUTHORITIES ARE BETTER SUITED TO MAKE THE DETERMINATION

Our state's juvenile authorities are particularly well suited to address these cases. Through a comprehensive Uniform Juvenile Court Act, N.D.C.C. Ch. 27-20, and decades of development of evidence-based interventions, juvenile court officers have mastered the balance of

rehabilitation, accountability, and deterrence. These court officers make individualized determinations based on the circumstances of the case, the offender's background, and the severity of the offense. These officials, not the Director, should determine when cancellation is appropriate for drug or alcohol offenses.

Responsible parents regularly remove driving privileges when their children engage in misconduct. "Taking away the keys" is punishment for parents to implement. This bill provides a supervising juvenile court officer, latitude to withhold cancellation when parents have implemented proper restrictions, or to require cancellation when irresponsible parents have not implemented controls.

Routine cancellation without case-specific consideration adversely impacts juvenile justice. Court officers may direct counseling, treatment, or testing for alcohol or drug use. These rehabilitative efforts require travel, reporting, and monitoring. A juvenile offender with single or working parents may be unable to complete the requirements. This bill permits juvenile authorities to impose limitations, but permit driving for rehabilitative purposes.

#### AVOIDS PUNISHING PARENTS

Practically, license cancellation punishes the parents, not the juvenile. North Dakota has a long history of permitting our youth to earn driving privileges at a young age. This is borne out of trust, and necessity. At fourteen, I regularly drove my brother and sister to school and hockey, while my parents worked.

Cancellation of driving privileges is cancellation of opportunity. While youth in larger cities may benefit from ride sharing and city transportation services, youth in rural North Dakota do not. Parents of youth with cancelled licenses must forgo work or caring for other children to ensure their children are able to attend school, church, extracurricular events, and meetings with court officers.

Practically, cancellation punishes parents. This bill permits parents to control restriction of driving privileges, alone or in conjunction with juvenile court officers.

#### CONCLUSION

This bill is based on principles employed successfully in juvenile justice. Serious drug and alcohol offenses presenting risk result in cancellation only if the juvenile is unwilling or unable to conform his behavior through lesser restraints imposed and monitored by court officers.

Except for point accumulation, this bill places cancellation determinations in the hands of parents and juvenile court officers. The bill does not limit the Director's administrative obligation to suspend or revoke driving privileges of juveniles who commit impaired driving offenses.

This bill takes a balanced approach, requiring the Director to cancel a minor's driver's license upon accumulation of more than five points, but reserving cancellation for alcohol and drug offenses to instances in which juvenile court authorities deem it proper. I ask the Committee to forward HB1176 to the floor with a unanimous DO PASS recommendation, and I will be happy to answer an questions.