

House Bill 1502
Senate Transportation Committee
Senator Clemens, Chairman
March 11, 2021

Chairman Clemens and members of the Senate Transportation Committee, my name is Sergeant Wade Kadrmas and I am the Safety and Education Officer for the North Dakota Highway Patrol. I am here today representing my agency in support of House Bill 1502, which makes changes to Title 39. House Concurrent Resolution 3052, which requested a study of Title 39, was passed during the 66th Legislative Assembly. The study of Title 39 was not selected by Legislative Management during the interim. Since it wasn't selected as a study, the highway patrol brought forth this session Senate Bill 2100 in an attempt to address parts of Title 39 that were inconsistent with current practices or laws in order to bring clarification due to varying interpretations. SB 2100 consisted of 23 sections, so it covered a lot of ground. The bill passed this committee, but failed on the Senate floor. Representative Mock was kind enough to work with our agency to determine which sections of the bill were most critical, and those sections are included in HB 1502.

Sections 1, 5 and 7 of the bill are intended to help clarify a law that was passed in 2011 following the 62nd Legislative Assembly to charge out-of-state residents a higher fine for failing to register upon gainful employment. After this law was implemented, it was discovered the higher fine could be applied to a North Dakota resident who had registered their vehicle in North Dakota but had let the vehicle registration lapse. There are also confusing areas such as failing to register being listed as both a moving and non-moving violation. The wording used in subdivision f of subsection 2 of section 39-06.1-06 states, "*A violation of subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, a fee of one hundred dollars.*" This wording directs individuals to subsection 1 of section 39-04-37, which has no reference to the temporary registration requirements for those who are gainfully employed under subsection 1 of section 39-04-18.2 or the term "resident" as defined under subdivision e of subsection 2 of section 39-04-18 which covers gainful employment. The patrol believes these three changes will provide the desired clarification so that current residents would only be charged \$20 for failing to renew registration while those who are gainfully employed and fail to register would still be charged \$100.

Sections 2 and 4 pertain to providing proof of current registration or a valid operator's license in to have a citation dismissed for failing to have a registration card or an operator's license in possession. The ability of law enforcement to check the status of vehicle registration and driver's licenses has evolved due to software advancements. Law enforcement can now access this information in real time either from the computer in their vehicle or by requesting dispatch to check the status. NDHP policy directs troopers to verify registration and drivers' license status and issue a warning if the registration and driver's license are current. The only time a citation is recommended is when an individual has had multiple warnings for not having this information in their possession and no card or license is in immediate possession at the time of the stop.

From 2017 to present, troopers have taken enforcement action for failing to have a registration card present just over 2,700 times; only eleven of those actions were citations. From 2017 to present, troopers have taken enforcement action for failing to have a driver's license in possession just over 6,100 times; only 151 of those actions were citations. The proposed change in this bill would give an individual 14 days to provide a physical registration card or driver's license to the office of the prosecutor to have a citation dismissed. The change matches the process in SB 2056, submitted by the Supreme Court for providing proof of current liability insurance, which was passed by the Senate and House floors.

Section 3 relates to the current 30-day time period defined by law for the transfer of a vehicle title. The additions to this section help clarify when the 30-day time limit starts. This change will help sellers and buyers, and it will give law enforcement and prosecutors guidance if there is an issue with the transfer of title. Once the title is transferred there is no time limit to have the vehicle registered. Individuals just have to have it registered before it is operated on a public roadway.

Sections 6 and 8 affect the law relating to reciprocal use of highways which requires commercial motor vehicles over 26,000 pounds to be registered or have a trip permit. The subdivision being added would assign a fine of \$50 and give the individual 14 days to either pay the citation or request a hearing. This option would eliminate the requirement for an out-of-state commercial motor vehicle driver to appear in court. Section 8 would list this as a moving violation since it is only considered a violation if the vehicle is being driven on roadways in North Dakota. These changes would reduce reciprocal use violations from an infraction to a \$50 moving violation. Several sections of this bill cover violations that don't have a specific penalty

listed so they default to an infraction as stated under 39-07-06. An infraction requires a court appearance, and a fine of up to \$1,000 may be assessed.

Section 7 clarifies non-moving violations. The display of number plates and tabs under 39-04-11 isn't a violation unless an individual operates a vehicle upon a public roadway so this bill would change the status to a moving violation. This change would make it consistent with other registration violations which are defined as moving violations such as exceeding the gross weight for which a vehicle is registered (39-04-22); failing to register a motor vehicle (39-04-37); and failing to carry a registration card in a motor vehicle (39-04-55).

Two other changes in this section reduce minor violations for failing to update a residential address from an infraction to a non-moving violation. Individuals are required to update the address listed on their vehicle registration (39-04-02.1) and their driver's license (39-06-20). This information is important when the ND DOT Driver's License or Motor Vehicle Division need to contact an individual. It is also important when an individual is cited or arrested since this information is used in reports and shared with courts. If an individual is cited or arrested with outdated address information, the individual may not receive important notifications from the courts or NDDOT. Addresses can be updated online, by e-mail, or by phone, and a new registration card or operator's license is not required.

Section 8 clarifies moving violations. The display of number plates and tabs (39-04-11) was added after being crossed out in section 7 of this bill. A violation of a class D instructional permit (39-06-04) was added so that the offense would be a \$20 dollar moving violation rather than an infraction. The House approved the amendment which added commercial motor vehicle instruction permit violations (39-06.2-07) to the definition of a moving violation as well to reduce it from an infraction. A violation of a motorcycle instruction permit (39-06-14.1) is already listed as a moving violation and assessed a fine of \$20 so these changes will make it consistent when dealing with any instructional permit violation.

Motorcycle equipment violations (39-27) are added as moving violations to be consistent with passenger vehicle equipment violations (39-21). This allows a \$20 citation to be issued for a motorcycle equipment violation rather than the requirement of the individual to appear in court with a possibility of a \$1,000 fine.

Section 9 and 10 moves the two points listed for instructional permit violations from the “criminal violations” section to the “noncriminal violations” section. The House approved the amendment to move all instruction permit violations (class D, commercial motor vehicle, and motorcycle) to the non-criminal violations section for consistency.

Section 11 clarifies the requirement for moving over for emergency vehicles on the interstate system within city limits. The lack of a comma has led to misinterpretation that the violation only applies to the interstate system outside of city limits. This law is meant to protect emergency personnel working on the interstate system regardless if the work occurs within or outside of city limits. The current law is written so it does not apply to multilane highways within city limits such as State Street/Highway 83 in Bismarck, ND Highway 2 in Minot, or Gateway Drive/Highway 2 in Grand Forks.

Section 12 clarifies the requirement of using turn signals when merging into or out of traffic or when changing lanes. The current terminology “move right or left upon a roadway” is vague and allows for differing interpretations. An example of differing interpretation occurs when a vehicle enters the interstate from an on-ramp. It has been argued that on-ramps naturally flow into normal lanes of traffic and therefore no turn signal is needed. Law enforcement views this action as a vehicle moving either left or right from the on-ramp into a separate roadway since the on-ramp lane ends. Vehicles already on the main road are not required to move over, and vehicles entering the roadway must yield to traffic already on the road. Utilizing a turn signal is necessary to warn other traffic of the intention to enter the roadway. Once on a roadway, drivers should also signal their intention to change lanes to alert other drivers of the vehicle’s movement.

Section 13 clarifies that a red light or reflector can be used on an implement of husbandry that extends beyond the extreme left portion of the towing unit. This entire section provides direction on the use of a lamp or reflector. For example, line 28 and 29 on page five states, “...must be equipped with at least one amber lamp or reflector”. The word “or” was likely left out under subdivision b of subsection 1 of section 39-21-15 on line 1 of page 6.

Mr. Chairman and members of the committee, the highway patrol has been tracking issues with Title 39 for several years, and we’d appreciate your consideration of this bill to clean up several areas. This concludes my testimony and I would be happy to answer any questions.