

**2021 HOUSE TRANSPORTATION**

**HB 1072**

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Transportation Committee**  
Room JW327E, State Capitol

HB 1072  
1/7/2021

A bill relating to electronic motor vehicle operator's licenses.
--

9:45 AM **Chairman Ruby** opened the hearing on HB 1072. Members present: Representative Dan Ruby Representative Tom Kading Representative Rick Becker Representative Cole Christensen Representative LaurieBeth Hager Representative Jared C. Hagert Representative Karla Rose Hanson Representative Terry B. Jones Representative Emily O'Brien Representative Mark S. Owens Representative Bob Paulson Representative Gary Paur Representative Robin Weisz Representative Greg Westlind

## **Discussion Topics:**

- Implementation of Mobile Driver's License
- Amendment proposal for HB 1072

9:46 **Robin Rehborg, Director for Driver Safety for the ND DOT.** Introduced the bill. Testimony #133.

9:51 **Brad Schaffer, Director Driver's License Department, Department of Transportation,** testified in support via ZOOM. Testimony # 139.

10:02 **Robin Rehborg** explained the fiscal note.

10:07 **Colonel Brandon Solberg, Superintendent of ND Highway Patrol** gave supportive testimony with an amendment. Testimony #200-201.

10:31 **Bill Panos, Director of Department of Transportation,** gave supportive testimony.

10:48 **Chairman Ruby** closed the hearing.

10:49 The meeting was adjourned.

*Jeanette Cook, Committee Clerk*

**HOUSE TRANSPORTATION COMMITTEE**  
**January 07, 2020 - 9:45 a.m. - Room 327E**

**North Dakota Department of Transportation**  
**Robin Rehborg, Deputy Director for Driver Safety**

**HB 1072**

---

Good morning Mr. Chairman and members of the committee. I'm Robin Rehborg, Deputy Director for Driver Safety for the North Dakota Department of Transportation (DOT). I'm here to provide information related to HB 1072. Thank you for giving me the opportunity to address you today.

House Bill 1072 provides for the implementation of the Mobile Driver License through the use of any mobile device. Today a driver license is used for the following two primary goals, to confirm identity and to convey driving privileges. The mobile license allows the holder to share only what information is necessary. When verifying age, it is not necessary to share name, address, and the exact date of birth. It provides another level of privacy to citizens providing greater control over personal information. The pandemic created another use case for a mobile license. If you are pulled over by law enforcement, you will remain in possession of the device and the officer can access your credentials wirelessly once you confirm to send the information. It also allows for a contactless verification of information at an airport. There is no more exchanging of a physical card that could spread an illness.

It allows the state to remotely manage a license by adding, updating, or revoking driving privileges and allows an option to quickly update an address and have a current credential without having to visit an office. If the phone is lost or stolen, the license can be deleted remotely before a new digital version is issued. It is also going to be less vulnerable to fraud and counterfeiting.

A Mobile DL brings with it several opportunities, such as establishing a wallet concept where multiple licenses could be carried simultaneously. These could be fishing or hunting licenses, or other items, such as identification of individuals authorized as responders during an emergency; there are many ways this mobile identity could be used in addition to standard uses. A Mobile DL is not a replacement for the actual card, rather a supplement to it.

The benefits of a Mobile DL include security, only accessed by the owner of the device through a pin or fingerprint. There is also a convenience knowing you always have your phone with you and freedom to leave your wallet at home.

This concludes my testimony. Thank You.

**North Dakota Department of Transportation**  
**Testimony Subject Matter Expert**

Name: Brad Schaffer

HB or SB Bill #: HB 1072

Email: bkschaffer@nd.gov

Phone #: 701-328-1674

**House Bill 1072**  
**House Transportation Committee**  
**Chairman Dan Ruby**  
**January 7, 2021**

Colonel Brandon Solberg, Superintendent  
North Dakota Highway Patrol

Good morning Chairman Ruby and members of the House Transportation Committee. My name is Brandon Solberg, and I am the superintendent of the North Dakota Highway Patrol. I am here today to propose an amendment to House Bill 1072 which relates to electronic operator's licenses.

The North Dakota Highway Patrol supports the overall concept of a digital driver's license, and this technology has already been implemented or is being tested in several states. If this type of digital license technology is authorized in North Dakota for law enforcement and identification purposes as described in this bill, a physical license would likely still have to be issued to those who travel out-of-state or want to fly.

The proposed amendments would clean up potential conflicts and redundancies with existing law. NDCC 39-06-16 requires that a license be provided "upon demand" of a police officer, but the current bill language seems to indicate that an officer cannot retrieve or scan an electronic driver's license without the operator's permission. If an operator refused to provide a driver's license, they'd be in violation of 39-06-16.

The director of DOT's drivers license division, Brad Schaffer, clarified that the intent of section 4 was to indicate that an operator must log into an app to allow access to the electronic operator's license, but I believe it's unnecessary to explain in law how individuals access their license. For example, law would not direct individuals to open a purse or a wallet to access their physical license. Rather, the law would simply require that the operator produce a license in some fashion.

Based on the potential misinterpretation of the bill's language, section 4 could be eliminated and replaced with the proposed amendment to NDCC 39-06-16 which allows an electronic operator's license to be provided in lieu of a physical license.

Also, section 5 of the current bill could be eliminated. It currently states "the computerized licensing system must display... whether the officer has reasonable suspicion..." If someone is stopped by a peace officer, the officer has determined there is reasonable suspicion that a violation occurred. Citizens are protected by the highest authority of law. For example, the United States Constitution covers unreasonable search and seizure under the 4<sup>th</sup> Amendment, and there is case law from the United States Supreme Court which directs what law enforcement can and cannot do. If an operator believes the officer did not have reasonable suspicion, the operator would be able to contest the violation, and the judicial branch would decide. With these protections in place, the current bill language is redundant.

After working with DOT on an amendment, I believe the intent of section 5 was to explain how the digital driver's license software would function, but as I stated, adding this type of detailed information to law seems unnecessary. By removing sections 4 and 5 and amending 39-06-16, the goal of allowing individuals to be able to provide an electronic operator's license would be achieved without detailing how the future software would specifically function.

Being able to provide identification electronically would match the process allowed for providing proof of liability insurance in North Dakota, and it could likely expand in the future to areas like vehicle registration information. The motor carrier industry and law enforcement officers around the nation are currently transferring log book data electronically so the digital sharing of information is possible. The highway patrol will continue to work with DOT on successful implementation from a law enforcement standpoint if this project is supported legislatively.

This concludes my testimony, and I will stand for any questions.

**PROPOSED AMENDMENTS TO HOUSE BILL NO. 1072**

Page 1, remove lines 19 through 23

Page 2, remove lines 1 through 2

Page 2, after line 12, insert:

**“SECTION 2. AMENDMENT.** Section 39-06-16 of the North Dakota Century code is amended and reenacted as follows:

**39-06-16. License to be carried and exhibited on demand.**

An individual licensed to operate a motor vehicle shall have ~~the~~ a physical or electronic operator's license in the individual's immediate possession at all times when operating a motor vehicle and shall physically surrender or electronically provide the ~~an~~ operator's license, upon demand of any court, police officer, or a field deputy or inspector of the department. However, an individual charged with violating this section may not be convicted or assessed any court costs if the individual produces in court or in the office of the arresting officer a valid operator's license issued to that individual that is not under suspension, revocation, or cancellation at the time of the individual's arrest.”

Renumber accordingly



# 2021 HOUSE STANDING COMMITTEE MINUTES

## Transportation Committee Room JW327E, State Capitol

HB 1072  
1/14/2021

A bill relating to electronic motor vehicle operator's licenses.

9:42 AM **Chairman Ruby** opened the meeting.

Attendance:

Representatives	Present
Representative Dan Ruby	Y
Representative Tom Kading	Y
Representative Rick Becker	Y
Representative Cole Christensen	Y
Representative LaurieBeth Hager	Y
Representative Jared C. Hagert	Y
Representative Karla Rose Hanson	Y
Representative Terry B. Jones	Y
Representative Emily O'Brien	Y
Representative Mark S. Owens	A
Representative Bob Paulson	Y
Representative Gary Paur	Y
Representative Robin Weisz	Y
Representative Greg Westlind	Y

### Discussion Topics:

- Electronic motor vehicle operator's licenses
- Updated fiscal note

9:42 **Representative Paulson** presented an amendment # 21.8107.01001.

9:48 Committee discussion

9:54 **Representative Hanson** moved the amendment # 21.8107.01001.

9:54 **Representative O'Brien** seconded the motion.

9:55 Voice vote. Motion carried

10:58 **Representative Jones** moved a DO PASS as amended and rerefer to Appropriations.

10:58 **Representative Hagert** seconded the motion.

10:59 Roll Call Vote

Representatives	Vote
Representative Dan Ruby	Y
Representative Tom Kading	Y
Representative Rick Becker	Y
Representative Cole Christensen	Y

Representative LaurieBeth Hager	Y
Representative Jared C. Hagert	N
Representative Karla Rose Hanson	Y
Representative Terry B. Jones	Y
Representative Emily O'Brien	Y
Representative Mark S. Owens	A
Representative Bob Paulson	Y
Representative Gary Paur	N
Representative Robin Weisz	N
Representative Greg Westlind	Y

Motion carried. 10-3-1

10:00 **Representative Jones** will carry the bill.

10:00 **Chairman Ruby** the meeting was closed.

*Jeanette Cook, Committee Clerk*

January 7, 2021

DO 1/14/21  
/sf/

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1072

Page 1, line 2, after "licenses" insert "; and to amend and reenact section 39-06-16 of the North Dakota Century Code, relating to carrying an operator's license and exhibiting the license on demand"

Page 1, line 19, replace "A" with "Subject to section 39-06-16, a"

Page 1, line 22, remove "If a law enforcement officer requests identification via electronic method, the"

Page 1, remove line 23

Page 2, remove lines 1 and 2

Page 2, line 3, remove "6."

Page 2, line 5, replace "7." with "6."

Page 2, line 11, replace "8." with "7."

Page 2, after line 12, insert:

**"SECTION 2. AMENDMENT.** Section 39-06-16 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-16. License to be carried and exhibited on demand.**

An individual licensed to operate a motor vehicle shall have ~~thea~~ a physical or electronic operator's license in the individual's immediate possession at all times when operating a motor vehicle and shall physically surrender ~~theor electronically provide an~~ operator's license, upon demand of any court, police officer, or a field deputy or inspector of the department. However, an individual charged with violating this section may not be convicted or assessed any court costs if the individual produces in court or in the office of the arresting officer a valid operator's license issued to that individual that is not under suspension, revocation, or cancellation at the time of the individual's arrest."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1072: Transportation Committee (Rep. D. Ruby, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1072 was placed on the Sixth order on the calendar.

Page 1, line 2, after "licenses" insert "; and to amend and reenact section 39-06-16 of the North Dakota Century Code, relating to carrying an operator's license and exhibiting the license on demand"

Page 1, line 19, replace "A" with "Subject to section 39-06-16, a"

Page 1, line 22, remove "If a law enforcement officer requests identification via electronic method, the"

Page 1, remove line 23

Page 2, remove lines 1 and 2

Page 2, line 3, remove "6."

Page 2, line 5, replace "7." with "6."

Page 2, line 11, replace "8." with "7."

Page 2, after line 12, insert:

**"SECTION 2. AMENDMENT.** Section 39-06-16 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-16. License to be carried and exhibited on demand.**

An individual licensed to operate a motor vehicle shall have ~~the~~ a physical or electronic operator's license in the individual's immediate possession at all times when operating a motor vehicle and shall physically surrender ~~the~~ or electronically provide an operator's license, upon demand of any court, police officer, or a field deputy or inspector of the department. However, an individual charged with violating this section may not be convicted or assessed any court costs if the individual produces in court or in the office of the arresting officer a valid operator's license issued to that individual that is not under suspension, revocation, or cancellation at the time of the individual's arrest."

Renumber accordingly

**2021 HOUSE APPROPRIATIONS**

**HB 1072**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee Brynhild Haugland Room, State Capitol

HB 1072  
2/2/2021

Relating to carrying an operator's license and exhibiting the license on demand.
--

**11:15 Chairman Delzer-** Called the meeting to order

Attendance	P/A
Representative Jeff Delzer	P
Representative Keith Kempenich	P
Representative Bert Anderson	P
Representative Larry Bellew	P
Representative Tracy Boe	P
Representative Mike Brandenburg	P
Representative Michael Howe	P
Representative Gary Kreidt	P
Representative Bob Martinson	P
Representative Lisa Meier	P
Representative Alisa Mitskog	P
Representative Corey Mock	P
Representative David Monson	P
Representative Mike Nathe	P
Representative Jon O. Nelson	P
Representative Mark Sanford	P
Representative Mike Schatz	P
Representative Jim Schmidt	P
Representative Randy A. Schobinger	P
Representative Michelle Strinden	P
Representative Don Vigesaa	P

### Discussion Topics:

- Electronic Drivers License
- Cost
- Airport Security
- Concerns about Privacy
- Updated Information
- Commercial Drivers Licenses
- Fee to cover expenses

**11:15 Representative Ruby-** Introduces HB 1072

**11:34** Committee Discussion

**11:39 Representative Kempenich; Made Motion to amend** and add a \$5.00 fee

**Representative Monson; Second the motion**

**Chairman Delzer;** Further discussion

**11:49 Roll Call Vote**

<b>Representatives</b>	<b>Vote</b>
Representative Jeff Delzer	N
Representative Keith Kempenich	Y
Representative Bert Anderson	N
Representative Larry Bellew	N
Representative Tracy Boe	N
Representative Mike Brandenburg	N
Representative Michael Howe	N
Representative Gary Kreidt	N
Representative Bob Martinson	N
Representative Lisa Meier	N
Representative Alisa Mitskog	N
Representative Corey Mock	N
Representative David Monson	Y
Representative Mike Nathe	N
Representative Jon O. Nelson	N
Representative Mark Sanford	N
Representative Mike Schatz	Y
Representative Jim Schmidt	N
Representative Randy A. Schobinger	N
Representative Michelle Strinden	N
Representative Don Vigesaa	N

**3-18-0 Failed**

**Additional written testimony:** No written testimony

**11:49 Chairman Delzer** closes the meeting for HB 1072

*Risa Berube,  
House Appropriations Committee Clerk*

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee Brynhild Haugland Room, State Capitol

HB 1072  
2/9/2021

Relating to electronic motor vehicle operator's licenses; relating to carrying an operator's license and exhibiting the license on demand

**4:26 Chairman Delzer-** Opens the meeting for HB 1072

Representatives	P/A
Representative Jeff Delzer	P
Representative Keith Kempenich	A
Representative Bert Anderson	P
Representative Larry Bellew	P
Representative Tracy Boe	P
Representative Mike Brandenburg	P
Representative Michael Howe	P
Representative Gary Kreidt	P
Representative Bob Martinson	P
Representative Lisa Meier	P
Representative Alisa Mitskog	P
Representative Corey Mock	A
Representative David Monson	P
Representative Mike Nathe	P
Representative Jon O. Nelson	P
Representative Mark Sanford	P
Representative Mike Schatz	P
Representative Jim Schmidt	A
Representative Randy A. Schobinger	P
Representative Michelle Strinden	P
Representative Don Vigesaa	P

### Discussion Topics:

- Electronic Operators license
- Fee for electronic licenses

**4:27 Representative Kreidt-** Amendment 21.8107.02002 to add a fee

**4:29 Representative Kreidt-** Make motion to move the amendment

**Representative Jon O. Nelson-**Second

Further Discussion

**Voice Vote- Motion carries**



**Representative Kreidt-** Make a motion for a Do Pass as Amended

**Representative Monson-**Seconds the motion

Further discussion

**4:31 Roll Call Vote**

<b>Representatives</b>	<b>Vote</b>
Representative Jeff Delzer	N
Representative Keith Kempenich	A
Representative Bert Anderson	Y
Representative Larry Bellew	N
Representative Tracy Boe	N
Representative Mike Brandenburg	Y
Representative Michael Howe	Y
Representative Gary Kreidt	Y
Representative Bob Martinson	N
Representative Lisa Meier	N
Representative Alisa Mitskog	Y
Representative Corey Mock	A
Representative David Monson	Y
Representative Mike Nathe	N
Representative Jon O. Nelson	Y
Representative Mark Sanford	Y
Representative Mike Schatz	N
Representative Jim Schmidt	A
Representative Randy A. Schobinger	Y
Representative Michelle Strinden	Y
Representative Don Vigasaa	N

**Motion Carries 10-8-3**

**Representative Kreidt will carry the bill.**

**Additional written testimony:** No Written testify

**4:33 Chairman Delzer** Closed the meeting for HB 1072

*Risa Berube,*

*House Appropriations Committee Clerk*

98  
2/10/21

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1072

Page 2, line 9, after "7." insert "In addition to the fees required by section 39-06-49 for an operator's license, a substitute operator's license, and an operator's license renewal:

- a. An initial fee of five dollars is required from a licensed motor vehicle operator seeking to possess an electronic operator's license; and
- b. The fee for an electronic operator's license renewal is five dollars.

8."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1072, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 8 NAYS, 3 ABSENT AND NOT VOTING). Engrossed HB 1072 was placed on the Sixth order on the calendar.

Page 2, line 9, after "7." insert "In addition to the fees required by section 39-06-49 for an operator's license, a substitute operator's license, and an operator's license renewal:

- a. An initial fee of five dollars is required from a licensed motor vehicle operator seeking to possess an electronic operator's license; and
- b. The fee for an electronic operator's license renewal is five dollars.

8."

Renumber accordingly

**2021 SENATE TRANSPORTATION**

**HB 1072**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Transportation Committee Fort Totten Room, State Capitol

HB 1072  
3/12/2021

A BILL for an Act to create and enact a new section to chapter 39-06 of the North Dakota Century Code, relating to electronic motor vehicle operator's licenses; and to amend and reenact section 39-06-16 of the North Dakota Century Code, relating to carrying an operator's license and exhibiting the license on demand.

**Chair Clemens** calls the meeting to order. Present are Chair Clemens, Vice Chair Fors, Senators Bakke, Conley, Dwyer. Senator D. Larsen absent. [9:00]

### Discussion Topics:

- Personal privacy
- Digital driver's licenses
- Mobile driver's licenses
- Card security

**Brad Schaffer [9:01]**, Driver's License Director for the ND Department of Transportation, testifies in favor and submits testimony #8848.

**Tom Iverson [9:18]**, Chief of Operations for the ND Highway Patrol, testifies in favor and submits testimony #8880.

### Additional written testimony:

**James Moyer**, of Cleveland, Ohio, submits testimony #8896 in opposition.

**Chair Clemens** adjourns the public hearing. [9:25]

**Senator D. Larsen** exits the meeting. [9:25]

**Chair Clemens** opens committee work. [9:25]

**Senator Dwyer [9:25]** motions to adopt an amendment. [LC 21.8107.03001]

**Senator Fors [9:25]** seconds.

Senators	Vote
Senator David Clemens	Y
Senator Robert Fors	Y
Senator Cole Conley	Y
Senator Michael Dwyer	Y

Senator Doug Larsen	A
Senator JoNell Bakke	Y

Motion passes 5-0-1. [9:26]

**Senator Bakke [9:26]** motions DO PASS AS AMENDED AND REREFER TO APPROPRIATIONS.

**Senator Conley [9:27]** seconds.

<b>Senators</b>	<b>Vote</b>
Senator David Clemens	Y
Senator Robert Fors	Y
Senator Cole Conley	Y
Senator Michael Dwyer	Y
Senator Doug Larsen	A
Senator JoNell Bakke	Y

Motion passes 5-0-1. [9:27]

**Senator Conley** will carry.

**Chair Clemens** adjourns the committee work meeting. [9:27]

*Sheldon Wolf, Committee Clerk*

March 12, 2021

CS  
3/12  
1041

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1072

Page 1, line 21, replace "Subject to section 39-06-16, a law enforcement officer" with "The computerized licensing system"

Page 1, line 21, remove "scan, retrieve, or in"

Page 1, line 22, replace "any other manner request electronic possession of" with "transmit or transfer"

Page 1, line 23, replace "permission" with "authorization"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1072, as reengrossed: Transportation Committee (Sen. Clemens, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1072 was placed on the Sixth order on the calendar.

Page 1, line 21, replace "Subject to section 39-06-16, a law enforcement officer" with "The computerized licensing system"

Page 1, line 21, remove "scan, retrieve, or in"

Page 1, line 22, replace "any other manner request electronic possession of" with "transmit or transfer"

Page 1, line 23, replace "permission" with "authorization"

Renumber accordingly



**SENATE TRANSPORTATION COMMITTEE**  
**March 12, 2021 - 9:00 a.m. – Fort Totten Room**

**North Dakota Department of Transportation**  
**Brad Schaffer, Director for Driver License**

**HB 1072**

---

Good morning Chairman Clemens and members of the committee. I'm Brad Schaffer, Director for Driver License for the North Dakota Department of Transportation (DOT). I'm here to provide information related to HB 1072. Thank you for your time today.

House Bill 1072 provides for the implementation of the Mobile Driver License through the use of any mobile device. Today a driver license is used for the following two primary goals, to confirm identity and to convey driving privileges. The mobile license allows the holder to share only what information is necessary. When verifying age, it is not necessary to share name, address, and the exact date of birth. It provides another level of privacy to citizens to control their personal information. The pandemic created another use case for a mobile license. If you are pulled over by law enforcement, you will remain in possession of the device and the officer can access your credentials wirelessly once you confirm to send the information. It also allows for a contactless verification of information at an airport. There is no more exchanging of a physical card that could spread an illness.

It allows the state to remotely manage a license by adding, updating, or revoking driving privileges and allows an option to quickly update an address and have a current credential without having to visit an office. If the phone is lost or stolen, the license can be deleted remotely before a new digital version is issued. It is also going to be less vulnerable to fraud and counterfeiting.

A Mobile DL brings with it several opportunities, such as establishing a wallet concept where multiple licenses could be carried simultaneously. These could be fishing or hunting licenses, or other items, such as identification of individuals authorized as responders during an emergency. A Mobile DL is not a replacement for the actual card, rather a supplement to it. A physical card will still be issued to the citizen.

The benefits of a Mobile DL include security, only accessed by the owner of the device through a pin or fingerprint. There is also a convenience knowing you always have your phone with you and freedom to leave your wallet at home.

There is a \$1.1m fiscal note with this bill for the software and ongoing maintenance. In the original fiscal note we requested spending authority to pay for the software and ongoing maintenance. Our original intent with this bill was to offer this convenience to the public in addition to their license without additional fees.

The bill and fiscal note were amended. The House Appropriations committee added a fee of \$5 to obtain the mobile DL. It also added a \$5 fee upon license renewal. These fees would be in addition to the current \$15 license fee.

This concludes my testimony. Thank You.

**House Bill 1072**  
**Senate Transportation Committee**  
**Chairman David Clemens**  
**March 12, 2021**

*Major Tom Iverson, Chief of Operations*  
*North Dakota Highway Patrol*

Good morning Chairman Clemens and members of the Senate Transportation Committee. My name is Tom Iverson, and I am the chief of operations for the North Dakota Highway Patrol. I am here today to propose an amendment to House Bill 1072 which relates to electronic operator's licenses.

The North Dakota Highway Patrol supports the overall concept of a digital driver's license, and this technology has already been implemented or is being tested in several states. If this type of digital license technology is authorized in North Dakota for law enforcement and identification purposes as described in this bill, a physical license would likely still have to be issued to those who travel out-of-state or want to fly.

The proposed amendment would clarify the original intent of Section 4 which was to require that electronic operator's license data can only be transferred with authorization from the license holder. The current language specifically restricts law enforcement officers from accessing data without permission, but officers already have access to driver's license data. Peace officers must follow strict guidelines when accessing this type of information.

The responsibility to protect the transfer of data should be placed on the software being used, and that protection should apply to any attempted transfer such as someone with criminal intentions trying to capture your personal data. The proposed amendment would require the software to protect the operator's data regardless of who is trying to access or retrieve the data. The operator would be in control of authorizing a transfer, and in the case of law enforcement, 39-06-16 would require that an operator provide a license physically or electronically.

Being able to provide identification electronically would match the process allowed for providing proof of liability insurance in North Dakota, and it could likely expand in the future to areas like vehicle registration information. The motor carrier industry and law enforcement officers around the nation are currently transferring log book data electronically so the digital sharing of information is possible. The highway patrol will continue to work with DOT on successful implementation from a law enforcement standpoint if this project is supported legislatively.

This concludes my testimony, and I will stand for any questions.

In regards to HB 1072 (Electronic Driver's Licenses)  
Opposition testimony to North Dakota Senate Transportation Committee

Chairman Clemens, Committee Members:

My name is James Moyer, I research data protection (security and privacy) of identification card, passport and citizen identification systems. I have twenty years experience in this regard, having delivered testimony and reports to various institutions worldwide, including this legislature, other state legislatures, the European Commission, etc.

The electronic driver's license concept is deeply flawed and unnecessary. I recommend its rejection.

---

It might seem to you that ID on a mobile app is the answer to a question no one is asking.

So why is this idea being pursued in legislatures from Wyoming to Finland?

The genesis of this product is that it offers identity card vendors a way of monetizing their services differently. Right now ID card companies sell a plastic card product which can be used an unlimited quantity of times for one flat fee. (That is to say, a North Dakota citizen gets a driver's license for \$15, and for the next four years, it can be used an unlimited number of times for identification with no extra fee, for either the licensee or the person checking the ID.)

The purpose of the ID on an app is to move from the business of selling ID cards to selling *identity as a service*.

To understand the ID on an app business model, you have to understand its workflow:

- 1.) The app of the person whose ID is being checked communicates with the ID card company computer;
- 2.) which communicates with the state DOT computer;
- 3.) which responds with information back to the ID card company computer;
- 4.) which then sends that information to the app of the person who is verifying the ID.

This workflow is data processing heavy and involves the ID card company as an intermediary.

- 1.) Each data processing operation is a billable event;
- 2.) Each data processing operation creates additional data which has some value to party/parties.

ID on an app allows for charging *per time* that it is used. The charge could vary based on circumstances. Perhaps it could cost \$0.50 to use the ID on an app at a local gas station to buy alcohol, \$2.00 at a hotel bar and \$5.00 to check-in for a flight at the airport. (The fee payer is likely to be the person/entity verifying the person's ID. It might happen on a per event basis, but perhaps it is more likely to occur via a subscription model per authorized device.)

ID via app allows for other monetization opportunities. I have seen proposals from vendors which involve tying the app to other identification functions that a citizen may encounter, such as health care or banking. Perhaps citizens may find this useful, but the inclusion of these other functions greatly enhances the monetization opportunities for the ID card vendor.

However, this creates a lot of complicated privacy and security issues. Many of them are a function of the programming of the app. For instance, does the app ask for or require access to the phone's GPS function? Would the app send this information back to the vendor? Would it send the location information to the state DOT computer? Would the state keep that information in its archive and for how long?

Could the app read the user's contacts or pictures? What would it do with that information?

Another interesting question would be if the vendor integrated Facebook connectivity into the app. Would Facebook receive information regarding the individual's identity? Would DOT receive information about the individual's Facebook app usage? This is a relevant question: both Facebook and the ID vendor have incentives to make this connection. Is that connection in the best interests of the people of this state?

Because of these tie-ins, this legislation establishes a complicated relationship between the citizen and the ID app vendor. One which, as this legislation is currently written, is out of the hands of the legislature since the legislature is giving virtually unlimited rule making authority to DOT. This is a mistake, given the enormous data processing and sharing opportunities this app offers, the legislature should not give up oversight of its functioning. The opportunities for function creep are endless. And much of the decisions regarding how the app works is the discretion of the ID card company.

Showing a plastic ID to a human is a data neutral event. No new data is created. Using this app however would be creating new data in relation to the verification, which needs to be managed, audited and protected (or otherwise deleted.)

Remember, the workflow requires that the ID card company computer has a continuous connection with the DOT computer. That means that the security of DOT's servers is a function of the security of the ID card company's computers.

Ideally, none of those computers should be connected to the internet (and are connected only by private data lines.) But in order for the mobile apps to work on all these different devices, the ID card company computer has to be connected to the wider internet.

The opportunities for hacking are greatly increased by the prevalence of this app. The apps might broadcast to other apps or be hacked in such a way that the owner of the phone can be positively identified remotely. (I'd strongly recommend that this app not be used by individuals who are police officers, US military service members, employees with security access, etc.)

The truth is that many interests are coming together to get rid of the physical card. While claims today are that there is no interest in eliminating the plastic card, there is little doubt in my mind that the ultimate goal is to eliminate the card (or at the very least, increase the cost of the card.)

This legislature should be aware that, at this point in time, identity card manufacture is highly concentrated in a small number of firms worldwide. None of these are based in the United States, the documents are simply too complicated to manufacture and the patents are largely owned by two European firms (one of which, the French company Idemia, manufactures the North Dakota ID card.) Because they own the patents, it is ultimately up to them if they want to continue manufacturing plastic ID cards and what their cost will be. The state can't compel the manufacture of plastic ID cards given that the state is unable to manufacture the cards on its own. There are more business opportunities in the driver's license as a mobile app than there are in plastic ID cards. The more legitimacy that is given to the mobile ID app model, the faster will be the elimination of the plastic ID cards. Once the plastic cards are eliminated, then the fee per use model will become standard.

For legislatures globally, managing the industry which prints identity cards will be a necessary challenge. Otherwise it will be the industry dictating policy.

There are enormous privacy and security issues with this legislation. As much as I find fault with the plastic ID card security model, I find the ID on an app model to multiply those security and privacy issues significantly.

I would argue that this proposal is unwise, unneeded, and bad value for the citizens of this state.

**2021 SENATE APPROPRIATIONS**

**HB 1072**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Appropriations Committee Roughrider Room, State Capitol

HB 1072  
3/25/2021  
Senate Appropriations Committee

Relating to electronic motor vehicle operator's licenses.
---

**Senator Holmberg** opened the hearing at 10:32 a.m.

Senators present: **Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.**

### Discussion Topics:

- Online Registration
- Hackers

**Robin Rehborh – Deputy Director for Drivers Safety, NDDOT,** introduced the bill

**Brad Schafer, Department of Transportation,** answered questions from the committee

**Tom Iverson, Chief of Operations, North Dakota Highway Patrol,** answered questions from the committee.

**Additional written testimony:** #10563 (submitted multiple times), #10577 (submitted twice), #10630

**Senator Holmberg** closed the hearing at 10:53 a.m.

**Senator Mathern** moved DO PASS

**Vice-Chair Kresbach** seconded the motion.

<i>Senators</i>		<i>Senators</i>	
<i>Senator Holmberg</i>	Y	<i>Senator Hogue</i>	Y
<i>Senator Krebsbach</i>	Y	<i>Senator Oehlke</i>	Y
<i>Senator Wanzek</i>	Y	<i>Senator Poolman</i>	Y
<i>Senator Bekkedahl</i>	Y	<i>Senator Rust</i>	Y
<i>Senator Davison</i>	Y	<i>Senator Sorvaag</i>	Y
<i>Senator Dever</i>	Y	<i>Senator Heckaman</i>	Y
<i>Senator Erbele</i>	Y	<i>Senator Mathern</i>	Y

Roll Call Vote 14-0-0

**Chairman Holmberg** adjourned at 10:55 a.m.

*Skyler Strand, Committee Clerk*



**REPORT OF STANDING COMMITTEE**

**HB 1072, as reengrossed: Appropriations Committee (Sen. Holmberg, Chairman)**  
recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Reengrossed HB 1072 was placed on the Fourteenth order on the calendar.

To the Senate Appropriations Committee:

In American society our driver's license is more than just another card in our wallet. Our driver's license carries with us an acknowledgement from our state of residency that we are who we claim to be. It is a tool, and the situations in which we use this tool are extensive.

The Department of Transportation is asking you to approve an initial \$1M plus ongoing maintenance costs, to create a duplicate driver's license on our mobile phone. A so-called "e-driver's license".

This bill is being presented to you at a time when:

- **(Cost)** The Governor of North Dakota has for the past two biennium highlighted the under-funded nature of the existing information technology (IT) infrastructure, yet we want to add a "nice-to-have" to the software portfolio?

"This budget moves forward with some long overdue projects which replace or upgrade systems that rely upon antiquated, and I must say ancient, mainframe technology... we've kicked this IT can down the road for decades, there is not much can left to kick, and we've run out of road" – Governor Doug Burgum

- **(Security)** Many State of North Dakota software systems have been compromised via the China-based Hafnium hack, yet we want to increase the computing endpoints to include citizens' phones?
- **(Security)** Governments across the country have been compromised by the SolarWinds hack. They are a primary target. They are not immune.
- **(Privacy)** Apple and Google are behaving as monopolistic oligarchs, yet we seek to bring them deeper into the relationship between the State of North Dakota and its citizens?
- **(Privacy)** How will this NOT become a government-held database of every instance of a citizen's use of the digital driver's license? How will that NOT be abused?
- **(Risk)** Does North Dakota really want to increase the chances of being part of a large-scale privacy lawsuit?

Voting NAY to HB 1072 equates to **fiscal common sense** and **citizen data privacy**. If you really want to spend \$1M on software, consider directing it to the next brittle mainframe system that needs to be replaced.

#### REFERENCES:

<https://www.grandforksherald.com/business/technology/6920998-North-Dakota-suspects-Chinese-hackers-had-control-of-public-email-servers-during-cyberattack>

<https://www.forbes.com/sites/thomasbrewster/2020/12/14/dhs-doj-and-dod-are-all-customers-of-solarwinds-orion-the-source-of-the-huge-us-government-hack/?sh=75c4930125e6>

Gov Burgum's 2021-23 Executive Budget Address: <https://youtu.be/2HhjrMzLZA?t=1041>

[https://www.journalofaccountancy.com/issues/2017/jul/data-security-risks-drivers-licenses.ht](https://www.journalofaccountancy.com/issues/2017/jul/data-security-risks-drivers-licenses.html)

[ml](#)

Sixty-seventh  
Legislative Assembly  
of North Dakota

## REENGROSSED HOUSE BILL NO. 1072

Introduced by

Transportation Committee

(At the request of the Department of Transportation)

1 A BILL for an Act to create and enact a new section to chapter 39-06 of the North Dakota  
2 Century Code, relating to electronic motor vehicle operator's licenses; and to amend and  
3 reenact section 39-06-16 of the North Dakota Century Code, relating to carrying an operator's  
4 license and exhibiting the license on demand.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 39-06 of the North Dakota Century Code is created  
7 and enacted as follows:

8 **Electronic operator's license.**

9 1. The department shall implement a computerized licensing system that allows a  
10 licensed motor vehicle operator to provide electronic proof of valid licensing on an  
11 electronic communications device.

12 2. The electronic proof of valid licensing may be used:

13 a. When being stopped by a law enforcement officer for the purpose of enforcing or  
14 investigating the possible violation of an ordinance or state law; or

15 b. For identification purposes.

16 3. The electronic operator's license must be designed so that there is no need for the  
17 credential holder to relinquish possession of the device in which the electronic  
18 credential system is installed in order to present the credential, or for the individual to  
19 whom the credential is presented to access the verification system to confirm the  
20 validity of the credential.

21 4. Subject to section 39-06-16, a law enforcement officer may not scan, retrieve, or in  
22 any other manner request electronic possession of any information contained on an  
23 electronic operator's license without permission from the licensed motor vehicle  
24 operator.

- 1        5. In case of a discrepancy between a physical and electronic credential, the electronic  
2        credential takes priority and is considered to provide the current information.
- 3        6. The electronic credential and verification systems must be designed to protect the  
4        credential holder's privacy, including the use of privacy enhancing technology or other  
5        appropriate methods. If the department enters an agreement with a third-party  
6        electronic credential system provider, the agreement must require the third-party  
7        electronic credential system provider to take appropriate measures to protect the  
8        credential holder's privacy.
- 9        7. In addition to the fees required by section 39-06-49 for an operator's license, a  
10       substitute operator's license, and an operator's license renewal:
- 11       a. An initial fee of five dollars is required from a licensed motor vehicle operator  
12       seeking to possess an electronic operator's license; and
- 13       b. The fee for an electronic operator's license renewal is five dollars.
- 14       8. The director may adopt rules necessary for the effective implementation of an  
15       electronic operator's licensing system.

16       **SECTION 2. AMENDMENT.** Section 39-06-16 of the North Dakota Century Code is  
17       amended and reenacted as follows:

18       **39-06-16. License to be carried and exhibited on demand.**

19       An individual licensed to operate a motor vehicle shall have ~~the~~ a physical or electronic  
20       operator's license in the individual's immediate possession at all times when operating a motor  
21       vehicle and shall physically surrender ~~their~~ electronically provide an operator's license, upon  
22       demand of any court, police officer, or a field deputy or inspector of the department. However,  
23       an individual charged with violating this section may not be convicted or assessed any court  
24       costs if the individual produces in court or in the office of the arresting officer a valid operator's  
25       license issued to that individual that is not under suspension, revocation, or cancellation at the  
26       time of the individual's arrest.

Senate Appropriations Committee:

I am a citizen in District 13 and I am writing in OPPOSITION to HB 1072: A Bill for an Act to create and enact a new section to chapter 39-06 of the North Dakota Century Code, relating to electronic vehicle operators' licenses, etc.

There are multiple reasons why I oppose this bill and will break them down for you in my Testimony.

Cost: The Dept of Transportation is asking for an initial \$1 Million plus to get started with this, where is that money coming from? Will the Taxpayers need to pay for this even though we don't want it?

Security: I remember when I first got my Driver's License, I was told having the ability to drive was a Privilege and not a right, adding this onto our phones with all the threats of hacking, this could very quickly change. Who could have access to our personal information? The list is endless, this CANNOT be taken lightly, I know I don't want my DL info on my phone.

Privacy: Will Apple/Google have access to our DL information? Again, that is personal/private info that I do NOT want to share with my cell phone manufacturer or my cell carrier.

Identity theft: We already hear a lot about Identity theft, and this will make it easier for criminals to get more personal information off your phone if your phone gets stolen.

Please vote NO on HB 1072.

Thank you for your time.

References:

<https://www.grandforksherald.com/business/technology/6920998-North-Dakota-suspects-Chinese-hackers-had-control-of-public-email-servers-during-cyberattack>

Gov Burgum's 2021-23 Executive Budget Address: <https://youtu.be/2HhjkrMzLZA?t=1041>  
<https://www.journalofaccountancy.com/issues/2017/jul/data-security-risks-drivers-licenses.html>