

2021 SENATE TRANSPORTATION

SB 2099

2021 SENATE STANDING COMMITTEE MINUTES

Transportation Committee Fort Totten Room, State Capitol

SB 2099
1/7/2021

A BILL for an Act to amend and reenact subsection 2 of section 39-06.1-02, and sections 39-06.1-07 and 39-07-07 of the North Dakota Century Code, relating to citations; and to repeal section 39-07-07.1 of the North Dakota Century Code, relating to citations.

Chair Clemens calls the meeting to order. Present are Chair Clemens, Vice Chair Fors, Senators Bakke, Conley, Dwyer, D. Larsen. [10:17]

Discussion Topics:

- Printed envelopes for citations
- QR codes for citations
- Possible saved costs for citations of traffic violations

Lieutenant Adam Dvorak [10:17], assistant operations commander for the ND Highway Patrol, introduces the bill and submits testimony #118 in support of SB 2099.

Jackson J. Lofgren [10:37], North Dakota Association of Criminal Defense Lawyers, testifies in opposition to SB 2099 and submits testimony #152.

Chair Clemens adjourns the hearing on SB 2099. [11:01]
Sheldon Wolf, Committee Clerk

Senate Bill 2099
Senate Transportation Committee
Senator David Clemens, Chairman

January 7, 2021

Chairman Clemens and members of the committee, my name is Lieutenant Adam Dvorak, assistant operations commander for the North Dakota Highway Patrol. I am here to provide testimony in support of Senate Bill 2099, which was introduced at the request of the Highway Patrol.

The removal of language in sections 1 and 3, and the addition of language in sections 2 and 3, eliminates the requirement for law enforcement to provide a printed envelope for use in mailing bond to the corresponding clerk of district court. It also gives law enforcement the additional option to provide citizens with a website address or a quick response code, commonly referred to as a "QR code" to fulfill the requirements of NDCC 39-06.1-07.

Currently, the Highway Patrol provides a printed envelope when citizens are issued a citation. The envelopes are pre-printed to include information on how to pay the fines online through the ND Courts System. The envelopes are also pre-printed with the notification form which is a requirement under NDCC 39-06.1-07 requiring an individual to be notified of a violation they have been charged with as well as the procedures available for handling a citation. The language provided by the Director of the Department of Transportation must be approved by the Attorney General. In addition to the pre-printed information, our administrative assistants also print the addresses for the 53 individual clerks of district court on the envelopes, or, troopers on the side of the road affix a pre-printed address label for the appropriate county they are working in.

This bill removes the requirement of providing the envelope to those being cited. In the case of the Highway Patrol, we would provide them with the website address or the quick response code that electronically links them to the required notification form. That, along with the address of the appropriate clerk of district court, is printed on the citation. Section 3 changes the language of "person" to "an individual", and changes "shall" provide the person with an envelope for use in mailing the bond to "may". If another law enforcement agency does not want to change their procedure regarding issuing citations and providing bond envelopes, this bill does not change that, and they can continue conducting business as they have been.

A cost analysis was completed of the bond envelopes; our agency alone currently spends approximately \$9700 a biennium for pre-printed bond envelopes. This change would also save time for both administrative assistants at our offices, and troopers on the side of the road. I appreciate your support in considering the change reflected in this bill and I'd be happy to answer any questions you may have.

January 7, 2021

Testimony to the **Senate Transportation Committee**

By Jackson Lofgren on behalf of the ND Association of Criminal Defense Lawyers

Testimony In Opposition to SB 2099

Chairmen Clemens and Committee Members:

My name is Jackson Lofgren and I represent the ND Association of Criminal Defense Lawyers. The NDACDL is made up of lawyers who dedicate at least a portion of their practice to criminal defense. The mission of the NDACDL is “to promote justice and due process...” and “...promote the proper and fair administration of criminal justice within the State of North Dakota. We are **opposed** to SB 2099 and recommend a **DO NOT PASS** from this Committee.

Presently, when a law enforcement officer believes a driver is impaired the officer will ask for a chemical test. The vast majority of chemical tests performed in North Dakota are done using an Intoxilyzer 8000 which is a small machine about the size of an old IBM typewriter. Almost every police department and jail in North Dakota has one. The driver blows twice into a tube and the machine prints a report showing the driver's alcohol concentration. The officer immediately provides the driver with a copy of the results along with a form notifying the driver the Department of Transportation intends to suspend the driver's license. If the driver does not request a hearing within ten days of the form being issued the license is automatically suspended. There is nothing overly complicated or problematic about the way the form is currently issued. To that end SB 2099 is a solution looking for a problem.

Driving privileges are vital to most North Dakotans. The questions often asked by drivers facing suspension include: “Am I going to lose my job?” “How do I get my kids to school?” “Who is going to take my family members to their medical appointments?” Unfortunately, the DOT's administrative process is confusing and strictly construed against the driver. Most people, including lawyers, do not understand it. I am often asked by potential clients “How did I lose my license, I haven't even been to court yet?”

The changes proposed by SB 2099 are not good. A driver only has ten days from the date the notification form is issued to request an administrative hearing or the hearing is waived. If the officer places the notification form in the mail most or all of the ten day period will expire while the notification is in the mail. In many cases the driver will not get the notification form in time and will automatically lose their license even if there is a valid defense.

I cannot fathom how the notification form could be issued by providing the driver with a website or “QR” code which is also a change proposed by SB 2099. Most drivers would not know what to do with the web address or code. Drivers without a smart phone or computer would have no way to access the information. This flies in the face of due process.

For these reasons we urge a **DO NOT PASS** on SB 2099.

Thank You,

Jackson Lofgren

2021 SENATE STANDING COMMITTEE MINUTES

Transportation Committee Fort Totten Room, State Capitol

SB 2099
1/14/2021

A BILL for an Act to amend and reenact subsection 2 of section 39-06.1-02, and sections 39-06.1-07 and 39-07-07 of the North Dakota Century Code, relating to citations; and to repeal section 39-07-07.1 of the North Dakota Century Code, relating to citations.

Chair Clemens calls the meeting to order. Chair Clemens, Vice Chair Fors, Senators Bakke, Conley, Dwyer, and D. Larsen are present. [2:06]

Discussion Topics:

- Bond envelopes
- Citations
- How citations are presently being paid

Major Aaron Hummel [2:07], Chief of Staff for the ND Highway Patrol, testifies in favor of SB 2099 and offers amendments. Submits testimony #1116.

Chair Clemens adjourns the meeting. [2:30]

Sheldon Wolf, Committee Clerk

**Testimony
Senate Bill 2099
Senate Transportation Committee
Senator Clemens, Chairman
January 14, 2021**

Chairman Clemens and Members of the Senate Transportation Committee, my name is Major Aaron Hummel, chief of staff for the North Dakota Highway Patrol (NDHP). I am here to provide additional information related to Senate Bill 2099 along with a proposed amendment.

Based on the initial hearing of the bill, we at the Highway Patrol felt it was appropriate to visit with the opposition to the bill, Mr. Jackson Lofgren, who represented the North Dakota Association of Criminal Defense Lawyers. As you may recall, the opposition centered around conflict the bill language may have with the temporary operator's permit form. The purpose of bringing this bill to the assembly was certainly not to change or disrupt the process surrounding the temporary operator's license, also known as the report and notice form, SFN 9362. We are in agreement with Mr. Lofgren in the hope that the language can be clarified to separate the form known as the "notification form" which is a form (SFN 5775) that must contain language informing the individual charged with a traffic violation of the procedures available to them.

The amendment I have provided clearly separates the two forms and the procedure required of each form. The original bill language will still allow for the "notification form" to be delivered to the individual in writing, by providing a website, or providing a quick response code, which was the original intent when submitting the bill.

In addition to the amendment addressing the two forms, I am also providing an amendment to address concerns of some of the committee members relating to providing a bond envelope. The amendment changes the language in the bill from *an officer "may" provide the individual with an envelope for use in mailing bond* to *an officer shall, upon request, provide the individual with an envelope for use in mailing the bond*. I have contacted the North Dakota Supreme Court to inquire about how citations are currently being submitted by individuals today. For 2019-2020, 24% of citations are being paid by mail, 47% are being paid by using the online payment system, 11% are being paid over the phone, 6% are being paid using their automated phone system, and 12% are being paid in person. The NDHP only accounts for a fraction of citations issued statewide, but these statistics for the NDHP alone demonstrate that over \$7,000/biennium is being thrown away. This does not include the time spent by our administrative staff and troopers printing, labeling, and preparing the envelopes, which is certainly much higher. To put things into perspective, the Highway Patrol issued nearly 70,000 citations in 2020, each of those require an envelope to either be printed for each of the 53 counties or labeled. As part of efforts to maximize resources and save taxpayer dollars, the NDHP has multiple bill introductions which are meant to address tasks that we believe can be transformed, this is one of those tasks. Our budget bill does include a reduction and reprioritization of our administrative staffing.

Thank you for the opportunity to visit with you today, I hope these amendments alleviate any concerns and I urge you to support the bill. I would be happy to answer any questions you may have.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2099

Page 1, Lines 18 and 19, remove "and a temporary operator's permit under section 39-20-03.1 or 39-20-03.2"

Page 1, Line 24 through Page 3, Line 3, after 39-06.1-03 remove "and informing an individual who refuses a chemical test or onsite screening test under chapter 39-20 or who, on taking a chemical test, is found to be in violation of subdivision a of subsection 1 of section 39-08-01, of the procedures available under chapter 39-20."

Page 2, Line 9, insert:

- "2. The director shall prepare a temporary operator's permit under section 39-20-03.1, 39-20-03.2, and 39-20-04. The temporary operator's permit must inform the driver of the procedures available under chapter 39-20 and must be issued in accordance with that chapter. The temporary operator's permit may not be delivered by mail or electronic means unless specifically authorized in chapter 39-20."

Page 2, Line 26, replace "may" with "shall, upon request,"

Page 2, Line 27, replace "person" with "individual"

Renumber accordingly

2021 SENATE STANDING COMMITTEE MINUTES

Transportation Committee Fort Totten Room, State Capitol

SB 2099
1/15/2021

A BILL for an Act to amend and reenact subsection 2 of section 39-06.1-02, and sections 39-06.1-07 and 39-07-07 of the North Dakota Century Code, relating to citations; and to repeal section 39-07-07.1 of the North Dakota Century Code, relating to citations.

Chair Clemens calls the meeting to order. Chair Clemens, Vice Chair Fors, Senators Bakke, Conley, Dwyer, and D. Larsen are present. [10:58]

Discussion Topics:

- Bond envelopes
- Driving violations

Senator Bakke moves to adopt proposed amendment [LC 21.8091.01001]. [11:04]
Senator Fors seconds. [11:04]

Senators	Vote
Senator David Clemens	Y
Senator Robert Fors	Y
Senator Cole Conley	Y
Senator Michael Dwyer	Y
Senator Doug Larsen	N
Senator JoNell Bakke	Y

Motion passes 5-1-0. [11:04]

Senator Bakke moves DO PASS on SB 2099 as amended. [11:04]
Senator Dwyer seconds. [11:04]

Senators	Vote
Senator David Clemens	Y
Senator Robert Fors	Y
Senator Cole Conley	Y
Senator Michael Dwyer	Y
Senator Doug Larsen	N
Senator JoNell Bakke	Y

Motion passes 5-1-0. [11:05]
Senator Bakke will carry. [11:05]

Chair Clemens adjourns the meeting. [11:05]

Sheldon Wolf, Committee Clerk

January 14, 2021

5/16/2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2099

Page 1, after line 17, insert:

"1."

Page 1, line 18, overstrike "and a temporary operator's permit under"

Page 1, line 19, overstrike "section 39-20-03.1 or 39-20-03.2"

Page 1, line 24, overstrike "and informing"

Page 2, overstrike lines 1 and 2

Page 2, line 3, overstrike "39-08-01, of the procedures available under chapter 39-20"

Page 2, after line 8, insert:

"2. The director shall prepare a temporary operator's permit under sections 39-20-03.1, 39-20-03.2, and 39-20-04. The temporary operator's permit must inform the driver of the procedures available under chapter 39-20 and must be issued in accordance with that chapter. The temporary operator's permit may not be delivered by mail or electronic means unless specifically authorized under chapter 39-20."

Page 2, line 26, remove the overstrike over "shall"

Page 2, line 26, remove "may"

Page 2, line 27, overstrike "person with" and insert immediately thereafter "individual, upon request,"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2099: Transportation Committee (Sen. Clemens, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2099 was placed on the Sixth order on the calendar.

Page 1, after line 17, insert:

"1."

Page 1, line 18, overstrike "and a temporary operator's permit under"

Page 1, line 19, overstrike "section 39-20-03.1 or 39-20-03.2"

Page 1, line 24, overstrike "and informing"

Page 2, overstrike lines 1 and 2

Page 2, line 3, overstrike "39-08-01, of the procedures available under chapter 39-20"

Page 2, after line 8, insert:

"2. The director shall prepare a temporary operator's permit under sections 39-20-03.1, 39-20-03.2, and 39-20-04. The temporary operator's permit must inform the driver of the procedures available under chapter 39-20 and must be issued in accordance with that chapter. The temporary operator's permit may not be delivered by mail or electronic means unless specifically authorized under chapter 39-20."

Page 2, line 26, remove the overstrike over "shall"

Page 2, line 26, remove "may"

Page 2, line 27, overstrike "person with" and insert immediately thereafter "individual, upon request."

Renumber accordingly

2021 HOUSE TRANSPORTATION

SB 2099

2021 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Room JW327E, State Capitol

SB 2099
3/5/2021

A bill relating to citations.

9:00 AM **Chairman Ruby** opened the hearing.

Attendance

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

Discussion Topics:

- Preprinted envelopes for citations
- Availability of envelopes
- Cost of envelopes/savings

Lt. Adam Dvorak, ND Highway Patrol, introduction. Testimony # 7457

9:36 Chairman Ruby closed the hearing.

Representative Hager moved the amendment #21.8091.02001.

Representative Jones seconded.

Voice vote carried.

Representative Jones moved a Do Pass as amended.

Representative Kading seconded.

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

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

Motion carried. 11-1-2 Representative Jones carrier.

9:43 Adjourned.

Jeanette Cook, Committee Clerk

March 5, 2021

PA 3/5/21
1071

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2099

Page 3, line 2, after "shall" insert "offer to"

Page 3, line 3, replace "upon request." with "with"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2099, as engrossed: Transportation Committee (Rep. D. Ruby, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). Engrossed SB 2099
was placed on the Sixth order on the calendar.

Page 3, line 2, after "shall" insert "offer to"

Page 3, line 3, replace "upon request," with "with"

Renumber accordingly

Senate Bill 2099
House Transportation Committee
Representative Dan Ruby, Chairman
March 5, 2021

Good morning Chairman Ruby and members of the committee, my name is Lieutenant Adam Dvorak, assistant operations commander for the North Dakota Highway Patrol. I am here to provide testimony in support of Senate Bill 2099, which was introduced at the request of the Highway Patrol.

The removal of language in sections 1 and 3, and the addition of language in sections 2 and 3, eliminates the requirement for law enforcement to provide a printed envelope for use in mailing bond to the corresponding clerk of district court. It also gives law enforcement the additional option to provide citizens with a website address or a quick response code, commonly referred to as a "QR code" to fulfill the requirements of NDCC 39-06.1-07.

Currently, the Highway Patrol provides a printed envelope when citizens are issued a citation. The envelopes are pre-printed to include information on how to pay the fines online through the ND Courts System. The envelopes are also pre-printed with the notification form which is a requirement under NDCC 39-06.1-07 requiring an individual to be notified of a violation they have been charged with as well as the procedures available for handling a citation. The notification form language, provided by the Director of the Department of Transportation, must be approved by the Attorney General. In addition to the pre-printed information, our administrative assistants also print the addresses for the 53 individual clerks of district court on the envelopes, or, troopers on the side of the road affix a pre-printed address label for the appropriate county they are working in.

This bill removes the requirement of providing the envelope to those being cited. In the case of the Highway Patrol, we would provide them with the website address or the quick response code that electronically links them to the required notification form. That, along with the address of the appropriate clerk of district court, is printed on the citation. Section 3 changes the language of "person" to "an individual", and changes "shall" provide the person with an envelope for use in mailing the bond to "shall, upon request". If another law enforcement agency does not want to change their procedure regarding issuing citations and providing bond envelopes, this bill does not change that, and they can continue conducting business as they have been.

During the initial testimony of the bill in front of the Senate Transportation Committee, there were concerns raised by Jackson Lofgren who represents the ND Association of Criminal Defense Lawyers. Mr Lofgren felt that the original bill may have an adverse impact on current law regarding the temporary operator's permit, also known as the report and notice form. The intent when introducing the bill was not to impact this form in any manner, but rather just address what is known as the notification form, which is another separate form that we are currently printing on the back of envelopes but would like to provide electronically. We worked with Mr Lofgren to amend the bill in a fashion that removed the potential conflict and the bill in front of you is a result that was agreed upon and passed through the Senate.

A cost analysis was completed of the bond envelopes; our agency alone currently spends approximately \$9700 a biennium for pre-printed bond envelopes. This change would also save time for both administrative assistants at our offices, and troopers on the side of the road. Our agency alone issued approximately 70,000 citations in 2020. According to the ND supreme court, for the last two years, only

approximately 24% of those citations were actually paid by mail, likely in the provided envelopes. The other 76% were paid with various methods such as online, over the phone, or in person. That means approximately 53,200 of those envelopes immediately went into the garbage. I appreciate your support in considering the change reflected in this bill and I'd be happy to answer any questions you may have.