

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1068

2007 HOUSE TRANSPORTATION

HB 1068

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1068

House Transportation Committee

Check here for Conference Committee

Hearing Date: 01-04-2007

Recorder Job Number: 632

Committee Clerk Signature

Lisa M Thomas

Minutes:

Chairman Weisz opened the hearing on HB 1068. Rep. Delmore was absent.

HB 1068 relates to commercial driver's licenses.

Keith Magnusson, deputy director of DOT for driver and vehicle services, introduced the bill.

See written testimony.

Rep. Weisz: Three thousand, that's federal?

Magnusson: That is in the federal regulation. At the time, and you may remember when we adopted that provision. There weren't any federal regulations. I think it was the small cities that didn't have the means to do it that were looking for this now.

Rep. Ruby: In Section 3 when you talk about action that another state didn't take, how often do you see something like that where up to this point gives, isn't there a problem with North Dakota enforcing laws and issues that happened even though they weren't residences of North Dakota.

Magnusson: This is in the federal law in regulations. We didn't bring it up on our own. This is part of the Motor Carriers Safety Improvement Act of 1999.

Rep. Ruby: My own comment would be that, if we are so particular about all the federal regulations....

Magnusson: I think you are correct. But there are some states that have them, they may not have passed federal law soon enough. They are getting new audits and finding these things. It may have happened a few years ago. There is a ten year look back on somebody in North Dakota now that is part of a law that we passed in 2003. There is a real problem on a national level with commercial drivers.

Tom Baulzer, North Dakota Motor Carriers Assoc. spoke in support of the bill.

Tom: We have no issue with this bill what so ever and a majority of our carriers are interstate carriers where when they cross state lines, they are then bound by the federal requirements, and what you are doing here is just bringing North Dakota into compliance with the federal regulations.

There were no questions from the committee. There was no further support. There was no opposition to the bill.

Chairman Weisz closed the hearing. No Action was taken at this time.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1068

House Transportation Committee

Check here for Conference Committee

Hearing Date: 01-04-2007

Recorder Job Number: 635/636

Committee Clerk Signature

Lisa M Thomas

Minutes:

Chairman Weisz allowed committee discussion on HB 1068. Rep. Delmore was absent.

HB 1068 relates to commercial driver's licenses.

Rep. Weisz: Does everyone understand what it was?

Rep. Price: The only question is the one that asked you in how is the one hundred and eighty days applied? Is it continuous?

Rep. Weisz: My understanding, it wouldn't affect you personally, but it would affect anybody I employ.

Rep. Owens: I would like to look up 49 and see what it says in reference to this. If it's one hundred and eighty days, I had the same question.

Chairman Weisz asked the committee to recess.

Chairman Weisz: I talked to Keith Magnusson and the one hundred and eighty day provision, the way the federal law will read now if you do not currently need a CDL, like for agriculture, you still don't. But for seasonal businesses, you need a CDL. If it goes beyond that, they have to apply to get another permit. It would apply to custom harvesters and chemical dealers, etc.

Rep. Kelsch: So it would be one hundred and eighty consecutively?

Rep. Weisz: Yes, it is consecutively. Feds did it because generally the seasonal is the biggest amount.

Rep. Price: Those that have that restricted CDL wouldn't be limited to one hundred and fifty miles or any other?

Rep. Weisz: Right.

Rep. Price moved a DO PASS. Rep. Thorpe seconded.

Roll Call Vote: 12 yes 0 no 1 absent.

Carrier: Rep. Ruby

FISCAL NOTE

Requested by Legislative Council

12/27/2006

Bill/Resolution No.: HB 1068

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2005-2007 Biennium | | 2007-2009 Biennium | | 2009-2011 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | | | |
| Appropriations | | | | | | |

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 2005-2007 Biennium | | | 2007-2009 Biennium | | | 2009-2011 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill makes minor changes to the commercial driver's license laws. As such the bill should have no significant fiscal impact.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill should have no significant fiscal impact.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

| | | | |
|----------------------|---------------|-----------------------|------------|
| Name: | Marsha Lembke | Agency: | NDDOT |
| Phone Number: | 328-4365 | Date Prepared: | 01/03/2007 |

REPORT OF STANDING COMMITTEE (410)
January 4, 2007 3:13 p.m.

Module No: HR-02-0248
Carrier: Ruby
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1068: Transportation Committee (Rep. Weisz, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1068 was placed on the
Eleventh order on the calendar.

2007 SENATE TRANSPORTATION

HB 1068

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1068

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: February 22, 2007

Recorder Job Number: 3627

Committee Clerk Signature *Jody Hauge*

Minutes:

Senator Gary Lee opened the hearing on HB 1068 relating to commercial driver's licenses. **Keith Magnusson**, Deputy Director for Driver and Vehicle Services at the NDDOT spoke in support of HB 1068. He stated that failure to make these changes by the time of the next audit in late 2007 could result in withholding of federal highway funds in the amount of five percent for the first year of noncompliance and 10 percent in succeeding years. His written testimony is included. The NDDOT pre-filed HB 1068 as an agency bill. He also included a copy of the Federal Regulations.

Senator Lee called for additional testimony. There was no more testimony on HB 1068.

Senator Lee closed the hearing on HB 1068.

Senator Nething moved a Do Pass on HB 1068.

Senator Bakke seconded the motion.

The clerk called the roll call vote. 5-0-1

Senator Bakke will carry HB 1068.

REPORT OF STANDING COMMITTEE (410)
February 22, 2007 9:58 a.m.

Module No: SR-34-3655
Carrier: Bakke
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1068: Transportation Committee (Sen. G. Lee, Chairman) recommends DO PASS
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1068 was placed on the
Fourteenth order on the calendar.

2007 TESTIMONY

HB 1068

HOUSE TRANSPORTATION COMMITTEE

January 4, 2007

North Dakota Department of Transportation
Keith C. Magnusson , Deputy Director For Driver and Vehicle Services

HB 1068

Good morning, Mr. Chairman and members of the committee. I'm Keith Magnusson, Deputy Director for Driver and Vehicle Services at the North Dakota Department of Transportation. Thank you for giving me the opportunity to present information to you today.

The North Dakota Department of Transportation pre-filed House Bill 1068 as an agency bill. This bill brings North Dakota into compliance with federal commercial driver's license (CDL) requirements. There are a number of findings from a CDL audit, conducted by a contractor for the Federal Motor Carrier Safety Administration (FMCSA), requiring changes to make sure our CDL program is in compliance.

The final audit results were received too late for the 2005 session. Failure to make these changes by the time of the next audit in 2007 could result in withholding of federal highway funds in the amount of five percent for the first year of noncompliance and 10 percent in succeeding years. Some of these audit findings were due to federal regulation changes since we enacted our law. We are also asking for minor changes to comply with a court decision.

Section 1 broadens the military exception to the CDL requirements to follow the federal regulations. It also slightly narrows the snow removal exemption to match the federal regulations. These regulations put a cap of a population of 3,000 for political subdivision snow removal under this CDL exemption; this should not adversely affect any cities in North Dakota, because the smaller ones wanted this exemption in the first place. The last provision in this section narrows the farm-related industry exemption to match the federal definition. The exemption would be limited to 180 days each year, rather than unlimited.

Section 2 clarifies that a second "or subsequent" conviction in a noncommercial motor vehicle affects CDL privileges. Currently, the language discusses a "second" conviction and the North Dakota Supreme Court would not translate that to mean a second, third, fourth or more. When the law was written, we thought that anything after a second conviction would be included, but the court did not agree. This clarification is needed, or we will not be in compliance with the CDL regulations.

Section 3 allows North Dakota to take withdrawal action on an offense that did not occur in North Dakota, when the driver was not a North Dakota driver at the time of the offense, and the home state did not take disqualification action (which they were required to do). This action would be taken when the driver becomes a North Dakota driver.

SENATE TRANSPORTATION COMMITTEE

February 22, 2007

North Dakota Department of Transportation
Keith C. Magnusson , Deputy Director For Driver and Vehicle Services

HB 1068

Good morning, Mr. Chairman and members of the committee. I'm Keith Magnusson, Deputy Director for Driver and Vehicle Services at the North Dakota Department of Transportation. Thank you for giving me the opportunity to present information to you today.

The North Dakota Department of Transportation pre-filed House Bill 1068 as an agency bill. This bill brings North Dakota into compliance with federal commercial driver's license (CDL) requirements. There are a number of findings from a CDL audit, conducted by a contractor for the Federal Motor Carrier Safety Administration (FMCSA), requiring changes to make sure our CDL program is in compliance.

The final audit results were received too late for the 2005 session. Failure to make these changes by the time of the next audit in late 2007 could result in withholding of federal highway funds in the amount of five percent for the first year of noncompliance and 10 percent in succeeding years. Some of these audit findings were due to federal regulation changes since we enacted our law. We are also asking for minor changes to comply with a court decision.

Section 1 broadens the military exception to the CDL requirements to follow the federal regulations. It also slightly narrows the snow removal exemption to match the federal regulations. These regulations put a cap of a population of 3,000 for political subdivision snow removal under this CDL exemption; this should not adversely affect any cities in North Dakota, because the smaller ones wanted this exemption in the first place. The last provision in this section narrows the farm-related industry exemption to match the federal definition. The exemption would be limited to 180 days each year, rather than unlimited.

Section 2 clarifies that a second "or subsequent" conviction in a noncommercial motor vehicle affects CDL privileges. Currently, the language discusses a "second" conviction and the North Dakota Supreme Court would not translate that to mean a second, third, fourth or more. When the law was written, we thought that anything after a second conviction would be included, but the court did not agree. This clarification is needed, or we will not be in compliance with the CDL regulations.

Section 3 allows North Dakota to take withdrawal action on an offense that did not occur in North Dakota, when the driver was not a North Dakota driver at the time of the offense, and the home state did not take disqualification action (which they were required to do). This action would be taken when the driver becomes a North Dakota driver.

Westlaw.

FOR EDUCATIONAL USE ONLY

Page 1

49 C.F.R. § 383.3

C

Effective: [See Text Amendments]

Code of Federal Regulations Currentness

Title 49. Transportation

Subtitle B. Other Regulations Relating to
TransportationChapter III. Federal Motor Carrier Safety
Administration, Department of
Transportation (Refs & Annos)Subchapter B. Federal Motor Carrier
Safety RegulationsPart 383. Commercial Driver'S
License Standards; Requirements and
Penalties (Refs & Annos)

Subpart A. General

→ § 383.3 Applicability.

- (a) The rules in this part apply to every person who operates a commercial motor vehicle (CMV) in interstate, foreign, or intrastate commerce, to all employers of such persons, and to all States.
- (b) The exceptions contained in § 390.3(f) of this subchapter do not apply to this part. The employers and drivers identified in § 390.3(f) must comply with the requirements of this part, unless otherwise provided in this section.
- (c) Exception for certain military drivers. Each State must exempt from the requirements of this part individuals who operate CMVs for military purposes. This exception is applicable to active duty military personnel; members of the military reserves; member of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty U.S. Coast Guard personnel. This exception is not applicable to U.S. Reserve technicians.
- (d) Exception for farmers, firefighters, emergency response vehicle drivers, and drivers removing

snow and ice. A State may, at its discretion, exempt individuals identified in paragraphs (d)(1), (d)(2), and (d)(3) of this section from the requirements of this part. The use of this waiver is limited to the driver's home State unless there is a reciprocity agreement with adjoining States.

(1) Operators of a farm vehicle which is:

(i) Controlled and operated by a farmer, including operation by employees or family members;

(ii) Used to transport either agricultural products, farm machinery, farm supplies, or both to or from a farm;

(iii) Not used in the operations of a common or contract motor carrier; and

(iv) Used within 241 kilometers (150 miles) of the farmer's farm.

(2) Firefighters and other persons who operate CMVs which are necessary to the preservation of life or property or the execution of emergency governmental functions, are equipped with audible and visual signals and are not subject to normal traffic regulation. These vehicles include fire trucks, hook and ladder trucks, foam or water transport trucks, police SWAT team vehicles, ambulances, or other vehicles that are used in response to emergencies.

(3)(i) A driver, employed by an eligible unit of local government, operating a commercial motor vehicle within the boundaries of that unit for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, if

(A) The properly licensed employee who ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle; or

© 2007 Thomson/West. No Claim to Orig. U.S. Govt. Works.

FOR EDUCATIONAL USE ONLY

49 C.F.R. § 383.3

(B) The employing governmental entity determines that a snow or ice emergency exists that requires additional assistance.

(ii) This exemption shall not preempt State laws and regulations concerning the safe operation of commercial motor vehicles.

(e) Restricted commercial drivers license (CDL) for certain drivers in the State of Alaska.

(1) The State of Alaska may, at its discretion, waive only the following requirements of this part and issue a CDL to each driver that meets the conditions set forth in paragraphs (e) (2) and (3) of this section:

(i) The knowledge tests standards for testing procedures and methods of subpart H, but must continue to administer knowledge tests that fulfill the content requirements of subpart G for all applicants;

(ii) All the skills test requirements; and

(iii) The requirement under § 383.153(a)(4) to have a photograph on the license document.

(2) Drivers of CMVs in the State of Alaska must operate exclusively over roads that meet both of the following criteria to be eligible for the exception in paragraph (e)(1) of this section:

(i) Such roads are not connected by land highway or vehicular way to the land-connected State highway system; and

(ii) Such roads are not connected to any highway or vehicular way with an average daily traffic volume greater than 499.

(3) Any CDL issued under the terms of this paragraph must carry two restrictions:

(i) Holders may not operate CMVs over roads other than those specified in paragraph (e)(2) of this section; and

(ii) The license is not valid for CMV operation outside the State of Alaska.

(f) Restricted CDL for certain drivers in farm-related service industries.

(1) A State may, at its discretion, waive the required knowledge and skills tests of subpart H of this part and issue restricted CDLs to employees of these designated farm-related service industries:

(i) Agri-chemical businesses;

(ii) Custom harvesters;

(iii) Farm retail outlets and suppliers;

(iv) Livestock feeders.

(2) A restricted CDL issued pursuant to this paragraph shall meet all the requirements of this part, except subpart H of this part. A restricted CDL issued pursuant to this paragraph shall be accorded the same reciprocity as a CDL meeting all of the requirements of this part. The restrictions imposed upon the issuance of this restricted CDL shall not limit a person's use of the CDL in a non-CMV during either validated or non-validated periods, nor shall the CDL affect a State's power to administer its driver licensing program for operators of vehicles other than CMVs.

(3) A State issuing a CDL under the terms of this paragraph must restrict issuance as follows:

(i) Applicants must have a good driving record as defined in this paragraph. Drivers who have not held any motor vehicle operator's license for at least one year shall not be eligible for this CDL. Drivers who have between one and two years of driving experience must demonstrate a good driving record for their entire driving history. Drivers with more than two years of driving experience must have a good driving record for the two most recent years. For the purposes of this paragraph, the term good driving record means that an applicant:

(A) Has not had more than one license (except in the instances specified in § 383.21);

FOR EDUCATIONAL USE ONLY

49 C.F.R. § 383.3

(B) Has not had any license suspended, revoked, or canceled;

(C) Has not had any conviction for any type of motor vehicle for the disqualifying offenses contained in § 383.51(b);

(D) Has not had any conviction for any type of motor vehicle for serious traffic violations; and

(E) Has not had any conviction for a violation of State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with any traffic accident, and has no record of an accident in which he/she was at fault.

(ii) Restricted CDLs shall have the same renewal cycle as unrestricted CDLs, but shall be limited to the seasonal period or periods as defined by the State of licensure, provided that the total number of calendar days in any 12-month period for which the restricted CDL is valid does not exceed 180. If a State elects to provide for more than one seasonal period, the restricted CDL is valid for commercial motor vehicle operation only during the currently approved season, and must be revalidated for each successive season. Only one seasonal period of validity may appear on the license document at a time. The good driving record must be confirmed prior to any renewal or revalidation.

(iii) Restricted CDL holders are limited to operating Group B and C vehicles, as described in subpart F of this part.

(iv) Restricted CDLs shall not be issued with any endorsements on the license document. Only the limited tank vehicle and hazardous materials endorsement privileges that the restricted CDL automatically confers and are described in paragraph (f)(3)(v) of this section are permitted.

(v) Restricted CDL holders may not drive vehicles carrying any placardable quantities of hazardous materials, except for diesel fuel in quantities of 3,785 liters (1,000 gallons) or

less; liquid fertilizers (i.e., plant nutrients) in vehicles or implements of husbandry in total quantities of 11,355 liters (3,000 gallons) or less; and solid fertilizers (i.e., solid plant nutrients) that are not transported with any organic substance.

(vi) Restricted CDL holders may not hold an unrestricted CDL at the same time.

(vii) Restricted CDL holders may not operate a commercial motor vehicle beyond 241 kilometers (150 miles) from the place of business or the farm currently being served.

(g) Restricted CDL for certain drivers in the pyrotechnic industry.

(1) A State may, at its discretion, waive the required hazardous materials knowledge tests of subpart H of this part and issue restricted CDLs to part-time drivers operating commercial motor vehicles transporting less than 227 kilograms (500 pounds) of fireworks classified as DOT Class 1.3G explosives.

(2) A State issuing a CDL under the terms of this paragraph must restrict issuance as follows:

(i) The GVWR of the vehicle to be operated must be less than 4,537 kilograms (10,001 pounds);

(ii) If a State believes, at its discretion, that the training required by § 172.704 of this title adequately prepares part-time drivers meeting the other requirements of this paragraph to deal with fireworks and the other potential dangers posed by fireworks transportation and use, the State may waive the hazardous materials knowledge tests of subpart H of this part. The State may impose any requirements it believes is necessary to ensure itself that a driver is properly trained pursuant to § 172.704 of this title.

(iii) A restricted CDL document issued pursuant to this paragraph shall have a statement clearly imprinted on the face of the document that is substantially similar as follows: "For use as a CDL only during the

49 C.F.R. § 383.3

period from June 30 through July 6 for purposes of transporting less than 227 kilograms (500 pounds) of fireworks classified as DOT Class 1.3G explosives in a vehicle with a GVWR of less than 4,537 kilograms (10,001 pounds).

(3) A restricted CDL issued pursuant to this paragraph shall meet all the requirements of this part, except those specifically identified. A restricted CDL issued pursuant to this paragraph shall be accorded the same reciprocity as a CDL meeting all of the requirements of this part. The restrictions imposed upon the issuance of this restricted CDL shall not limit a person's use of the CDL in a non-CMV during either validated or non-validated periods, nor shall the CDL affect a State's power to administer its driver licensing program for operators of vehicles other than CMVs.

(4) Restricted CDLs shall have the same renewal cycle as unrestricted CDLs, but shall be limited to the seasonal period of June 30 through July 6 of each year or a lesser period as defined by the State of licensure.

(5) Persons who operate commercial motor vehicles during the period from July 7 through June 29 for purposes of transporting less than 227 kilograms (500 pounds) of fireworks classified as DOT Class 1.3G explosives in a vehicle with a GVWR of less than 4,537 kilograms (10,001 pounds) and who also operate such vehicles for the same purposes during the period June 30 through July 6 shall not be issued a restricted CDL pursuant to this paragraph.

[61 FR 9564, March 8, 1996; 61 FR 14677, 14679, April 3, 1996; 62 FR 1296, Jan. 9, 1997; 67 FR 49755, July 31, 2002; 67 FR 61821, Oct. 2, 2002]

SOURCE: 52 FR 20587, June 1, 1987; 57 FR 31457, July 16, 1992; 59 FR 26028, May 18, 1994; 59 FR 60323, Nov. 23, 1994; 61 FR 9564, March 8, 1996; 61 FR 14679, April 3, 1996; 62FR 1296, Jan. 9, 1997; 64 FR 48110, Sept. 2, 1999; 66 FR 49872, Oct. 1, 2001; 67 FR 49755, July 31, 2002;

67 FR 61821, Oct. 2, 2002; 68 FR 23849, May 5, 2003; 70 FR 56593, Sept. 28, 2005; 70 FR 66489, Nov. 2, 2005; 71 FR 2898, Jan. 18, 2006, unless otherwise noted.

AUTHORITY: 49 U.S.C. 521, 31136, 31301 et seq., 31502; sec. 214 of Pub.L. 106-159, 113 Stat. 1766, 1767; sec. 1012(b) of Pub.L. 107-56, 115 Stat. 397; sec. 4140 of Pub.L. 109-59, 119 Stat. 1144; and 49 CFR 1.73.

49 C. F. R. § 383.3, **49 CFR § 383.3**

Current through February 16, 2007; 72 FR 7582

Copr. © 2007

Thomson/West

END OF DOCUMENT

© 2007 Thomson/West. No Claim to Orig. U.S. Govt. Works.