

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1081

2007 HOUSE TRANSPORTATION

HB 1081

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1081

House Transportation Committee

Check here for Conference Committee

Hearing Date: Jan. 11, 2007

Recorder Job Number: 943

Committee Clerk Signature

*Laurel A Baranto*

Minutes:

**Chairman Weisz:** We are honored to have you with us this morning. I'll now turn the meeting over to you.

**Rep Delzer:** Thank you Chairman Weisz and members of the Transportation Committee.

**See Printed testimony:**

**Doug Johnson:** We do have some school districts in our state that do have parents drive the students to collecting places to meet the busses and for the most part these students pay mileage to these parents and that's how it's done. But there could be a case when you might have schools that provide a vehicle for them, like a Suburban or something like that, in particularly remote areas to take the students to and from collecting places using school vehicles that they provide. Now, I don't know of any districts that do that, but the question I do have is that the changes that are made in this bill may impact that situation should they arise.

**June Herman:** I'm here as a private citizen married to a school board member of a small, rural school. I know that the issue in question is that we have in our school, transitioning from vans which the schools are not to be continuing to use, and we're not at the big yellow school busses but a smaller version, and that is all of my expert knowledge of transportation within a school. I know parents are often utilized to volunteer to help take kids, especially when you're

in a cooperative and you're taking groups of kids to an event in one location. So we're asking a lot of parents to volunteer. What kind of impact will this requirement have in those situations where the schools are trying to keep their kids involved and being active in a lot of different activities?

**Rep. Ruby:** As long as the people don't accept money, or even gas, then insurance covers. Otherwise, if you're going into that then there's some provisions that you really need to be careful about, or just have somebody check out. I'm not an attorney, so I don't know all of the ramifications.

**Rep. Kelsch:** Parents have to sign off on legal responsibilities. But I do think it is the responsibility of the students and their parents rather than the responsibility of the drivers. I don't think this will affect anything.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1081

House Transportation Committee

Check here for Conference Committee

Hearing Date: 01-18-2007

Recorder Job Number: 1410

Committee Clerk Signature

*Don M Thomas*

Minutes:

**Chairman Weisz allowed committee discussion on HB 1081. Representatives Kelsch and Dosch were absent. HB 1081 relates to requirements of drivers of school buses and school vehicles.**

**Chairman Weisz:** DPI had some concerns and they came back to me and said the bill was fine and they have no problem with it.

**Rep. Kelsch was now present at the meeting.**

**Rep. Dosch:** My concern with the bill is that there are no kids in these vehicles when they are transporting them to and from, but yet, there is a reason why we require bus drivers to get these special licenses. To me the fact that they are still on the road, whether they are hauling students or not, poses a safety risk to others. I guess I do have a problem with this bill.

**Rep. Gruchalla:** I was just going to comment that a person can go and buy a motor home. They can just drive it down the highway without any special license so I don't see where the practice of driving the vehicle of that size is the issue here.

**Rep. Thorpe:** I think the intent of the bill was so that if they could have someone take the bus from point A to point B for repairs or fueling or a lot of different things, they wouldn't have to have someone with a CDL to move it. It seems reasonable authority doesn't it?

**Chairman Weisz:** If you look at the requirements of the school bus drivers, a lot of it is more related to stopping and yielding for children and all the other issues that really have to do with driving the vehicle itself.

**Rep. Kelsch:** We took "valid" out of line 9, is that an issue where you have removed "valid"?

**Chairman Weisz:** I know they changed that language throughout the code now to the appropriate class instead of valid and I think some of the issue had to do with when we changed, originally if you have a license suspended you have to turn it in, you couldn't hold. The license was still valid, just suspended. Now you can keep that license. I think that was some of the question. Just a language change to clarify. If the committee needs clarification, we can bring Mr. Magnusson down or get him on the phone.

**Rep. Schmidt:** I can see that Rep. Dosch and maybe Rep. Kelsch should be concerned a little more in Bismarck or Mandan, but in our rural areas and in Maddock for example. They have eight school buses. They have a man that is in charge of the buses, but then they have a mechanic and he doesn't drive the buses. The pumps are about six blocks from the school and that mechanic can't drive those buses out there because he isn't licensed. And the man that is in charge of the buses is busy with book work. Out in the rural areas, we shouldn't jeopardize that mechanic.

**Rep. Ruby moved a DO PASS. Rep. Gruchalla seconded.**

**Roll Call Vote: 11 yes. 2 no. 0 absent and not voting.**

**Carrier: Rep. Gruchalla**

Date: 1-18-07  
Roll Call Vote #: HB 1081

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. \_\_\_\_\_

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS

Motion Made By Rep Ruby Seconded By Rep Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. Delmore	✓	
Vice Chairman Ruby	✓	WMT	Rep. Gruchalla	✓	
Rep. Dosch			Rep. Myxter	✓	
Rep. Kelsch		✓	Rep. Schmidt	✓	
Rep. Owens	✓		Rep. Thorpe	✓	
Rep. Price	✓				
Rep. Sukut	✓				
Rep. Vigesaa	✓				

Total Yes 11 No 0

Absent 2

Floor Assignment REP Gruchalla

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1081: Transportation Committee (Rep. Welsz, Chairman) recommends DO PASS**  
(11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1081 was placed on the  
Eleventh order on the calendar.

2007 SENATE TRANSPORTATION

HB 1081

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1081

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: March 8, 2007

Recorder Job Number: 4693

Committee Clerk Signature

*Jody Hauge*

Minutes:

**Senator Lee** opened the hearing on HB 1081 relating to requirements for drivers of schoolbuses and school vehicles. There were six senators present and 0 absent.

**Representative Delzer** introduced the bill and testified in favor of HB 1081. His written testimony is enclosed.

**Senator Nething** asked what a CDL was.

**Rep. Delzer** said it was a Commercial Drivers License.

**Marsha Lembke**, NDDOT/DL & TS said she was here to clarify and answer questions.

**Senator Potter** asked in Sec. 4, "other than school buses", means that teachers and administrators have been able to drive school buses without the appropriate licenses.

**Marsha** said she could not answer the questions but Rep. Delzer said this doesn't mean that.

The bill allows the teachers to drive to excurricula actives in a car or small van.

**Senator Potter** said that he thought this bill was good but he was surprised that the wording "other than schoolbuses" wasn't in the existing law. To him it means, it doesn't prohibit him from operating vehicles that are schoolbuses.

**Rep. Delzer** said that there are other areas where it tells the requirements that are needed to drive a school bus.

**Senator Lee** asked in subsection A the wording "appropriate class"; referred to CDL and the special endorsement would be air brakes etc.

**Marsha** said that was her understanding.

**Tom Decker**, Director, School Finance & Organization, Dept. of Public Instruction testified in favor of HB 1081. His written testimony is enclosed.

**Doug Johnson**, ND Council of Education spoke in support of HB 1081. He believes the last section (4) clarifies for the administrators on who are eligible to drive buses and who isn't and what is a bus.

**Senator Lee** closed the hearing on HB 1081.

**Senator Potter** moved a Do Pass on HB 1081.

**Senator Bakke** seconded the motion.

The clerk took the roll 6-0-0.

**Senator Bakke** will carry the bill.



**REPORT OF STANDING COMMITTEE (410)**  
March 8, 2007 1:07 p.m.

**Module No: SR-44-4731**  
**Carrier: Bakke**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1081: Transportation Committee (Sen. G. Lee, Chairman) recommends DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1081 was placed on the  
Fourteenth order on the calendar.

2007 TESTIMONY

HB 1081



HOUSE OF REPRESENTATIVES  
**NORTH DAKOTA**  
**LEGISLATIVE ASSEMBLY**



REPRESENTATIVE  
JEFF DELZER  
District 8  
2919 Fifth Street NW  
Underwood, ND 58576-9603  
jdelzer@nd.gov

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360

Speaker of the House

Chairman Weise and members of the transportation committee,

For the record, I am Jeff Delzer Representative for District 8, which is parts of Mclean and Burliegh counties. I am here to ask for your favorable consideration of HB1081.

House Bill 1081 would change the requirement that anyone driving a school bus have a CDL. If the bill passes it would allow, mechanics and others to drive a school bus for testing or moving a school bus as long as students or others were not on the bus as passengers. I was asked by a constituent to propose this legislation because of a conversation they had with safety personnel. From the conversation, and what I found out in research is that we currently require a CDL to drive a bus at all. This is causing problems for some who may need to drive the bus for test of repair work. Allowing the bill in the form would also allow someone to deliver the bus to a repair site or transfer site for other reasons. The individual who asked for this has said that since he became aware of the license requirement he has not driven a bus at all. This has been a hardship as far as test driving buses either before or after repairs. While I have heard from a small number of people I would venture a guess that this practice of test driving is likely happening fairly often and this bill would help them to be legal when they service a school bus. Thank you mister chairman and I would be glad to try to answer any questions the committee may have.

1081

**TESTIMONY ON HB 1334**  
**SENATE TRANSPORTATION COMMITTEE**

**March 8, 2007**

**by Tom Decker, Director, School Finance & Organization**

**(701) 328-2267**

**Department of Public Instruction**

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Mr. Chairman, and members of the committee, for the record, I am Tom Decker, Director, School Finance & Organization, Department of Public Instruction.

House Bill 1334 deals with requirements for school bus drivers.

Section 1, subsection 2 of the bill establishes a new set of criteria for school bus drivers who will be driving vehicles with a rated passenger capacity of 10 to 15 passengers.

The language requires that they hold a valid North Dakota's drivers license, the same kind of license that most of us have to drive our cars; that these drivers pass the physical specified for receiving a commercial drivers license; and that they complete annual training as specified by the superintendent of public instruction. That requirement currently amounts to 2 ½ hours of training per year as a minimum.

The last subsection of the bill indicates that the requirements of section apply to employees of school districts. In case there is a question in that regard, our intention was for these provisions to also apply to contractors who transported students in approved vehicles under contract for a school district.

The primary reason that these changes are before you is that the nature of vehicles which schools will be able to use in the 10 – 15 passenger capacity range is about to change. There is an Attorney General's opinion dated March 4, 2003

attached to my testimony. It provides an opinion requested by the state superintendent regarding school transportation vehicles and regulation of school transportation vehicles. The opinion confirms that the state superintendent has the authority to determine the specifications of vehicles used for school transportation.

Most states have, some years ago, prohibited the use of what is called "non-conforming vans." They are commercial vans in the 10 -15 passenger range which do not meet the specifications of a school bus. They are in fact, the kind of vehicle that many hotels and motels use for an airport shuttle service. As of July 1, 2008, school districts will no longer be able to use these non-conforming vans to transport students to and from school or school related activities.

We are well into a process across the state of replacing these vehicles with small capacity school buses. These buses will have the same equipment as any larger school bus, that is flashing lights, stop arms, and so on. They will be required to stop at railroad tracks and so on. While these people may drive this bus with a regular driver's license, some additional standards are needed. We need to be sure that the drivers of these vehicles are healthy enough to drive safely just like his colleague who is driving the larger bus with a commercial driver's license.

We have recommended for years that drivers of non-conforming vans and smaller school transportation vehicles such as suburbans, attend annual school bus driver training. The provisions of this bill would require that for drivers of vehicles in the 10-15 passenger category. We believe that to do less than adopt this minimal set of regulations which still does not require these drivers to have a commercial driver's license is the minimum that needs to be done to protect school districts from potentially large liability issues which might occur if people are driving these vehicles without appropriate training and/or of health checks.

That concludes my testimony, if there are any questions, I would be happy to answer them.

LETTER OPINION  
2003-L-15

March 4, 2003

Honorable Wayne G. Sanstead  
Superintendent of Public Instruction  
600 East Boulevard Avenue, Dept. 201  
Bismarck, ND 58505-0440

Dear Dr. Sanstead:

Thank you for your letter asking whether a van that does not conform to school bus standards contained in your department's administrative rules may be used by a public or private school to transport children to and from school or school-related activities.

State law defines "schoolbus" as follows:

"Schoolbus" means any motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or to or from school-related activities, or privately owned and operated for compensation for the transportation of children to or from school or to or from school-related activities.

N.D.C.C. § 39-01-01(67).

A "vehicle" includes every device in, upon, or by which any person or property may be transported or drawn upon a public highway." N.D.C.C. § 39-01-01(89). A "motor vehicle" includes every vehicle that is self-propelled." N.D.C.C. §39-01-01(38). Therefore, a vehicle commonly referred to as a "van" is a motor vehicle and, if operated for the transportation of children to or from school or to or from school-related activities, must comply with your department's rules on schoolbuses.

Your authority with respect to schoolbus standards provides:

**Schoolbus standards - Equipment and color regulations.** Only motor vehicles which have been designed by the manufacturer for the purpose of carrying passengers may be used as schoolbuses. The

superintendent of public instruction may adopt reasonable regulations, consistent with the provisions of this chapter, relating to the construction, design, operation, equipment, and color of schoolbuses and shall prepare and publish standards for North Dakota schoolbuses which must set forth the regulations. The superintendent of public instruction may issue an order prohibiting the operation on public streets, highways, and elsewhere of any schoolbus which does not comply with the regulations, and school districts operating buses which do not meet the regulations will not be eligible to receive state reimbursement for vehicular transportation. If a schoolbus is purchased for a purpose or purposes other than the public transport of schoolchildren, the purchaser shall change the color of the vehicle and deactivate or remove the warning signal lights and the stop sign on the control arm.

Highway patrolmen and all peace officers are authorized to make necessary investigations relating to compliance with the regulations adopted by the superintendent of public instruction and to make reports of their findings to the office of the superintendent of public instruction.

N.D.C.C. § 39-21-27.1. This section authorizes you to adopt administrative rules, issue orders prohibiting operation of non-complying vehicles, and impose sanctions upon school districts operating non-complying buses. Id.

You implemented that authority by adopting N.D.A.C. ch. 67-12-01, Standards for Schoolbuses. Those rules provide that all public schoolbuses operated in North Dakota must meet the minimum body and chassis standards established or referenced in the chapter. N.D.A.C. § 67-12-01-01 (emphasis added). The rules apply to buses manufactured after January 1, 2000. N.D.A.C. § 67-12-01-04. The rules adopt the body and chassis standards of the federal motor vehicle safety standards and supplement those standards with the 1995 national minimum standards for schoolbus construction if the latter exceed or are in addition to the federal motor vehicle safety standards for schoolbuses. N.D.A.C. §§ 67-12-01-02 and 67-12-01-03.

Section 39-21-27.1, N.D.C.C., authorizes you to issue orders prohibiting any party, including private schools, from using a schoolbus that does not comply with your department's rules. However, the rules that have been adopted are limited to schoolbuses operated by public schools. It is therefore my opinion that a van used to transport children to and from school or school-related activities which you find does not comply with the minimum standards adopted in your administrative rules may not be used by a public school district, whether it is owned by the district or operated under contract pursuant to

LETTER OPINION 2003-L-15

March 4, 2003

Page 3

N.D.C.C. §§ 15.1-30-06 through 15.1-30-12.<sup>1</sup> Vehicles used by private schools are not required to comply with your department's standards.

Sincerely,

Wayne Stenehjem  
Attorney General

rel/pg

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<sup>1</sup> Transit buses utilized by students under N.D.C.C. § 15.1-30-01(3) are not schoolbuses subject to regulation because they are operated for general public transit which only incidentally includes students.

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HOUSE OF REPRESENTATIVES  
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Speaker of the House

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