

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1465

2007 HOUSE TRANSPORTATION

HB 1465

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1465

House Transportation Committee

Check here for Conference Committee

Hearing Date: 01-26-2007

Recorder Job Number: 2073

Committee Clerk Signature

Susan Thomas

Minutes:

Chairman Weisz opened the hearing on HB 1465. All Representatives were present.

HB 1465 relates to the licensing of motor-powered recreational vehicle dealers.

Rep. Hawken introduced the bill.

Rep. Hawken: I am introducing this on behalf of the North Dakota Power Force Builders Association. I don't know if anyone is here from their group, they are supposed to be. They wanted a name change which makes some sense. And then they had some questions about why, in one section of the law, it says to deposit with the state treasure and credit the highway tax distribution fund, and another section it say to deposit with the state treasurer's and credit it to motor vehicle registration fund. That was a concern. I really am not all that knowledgeable on this topic other than the name change.

Annette Caldwell, Off-road Honda spoke in support of the bill. See written testimony.

Caldwell: This is a housekeeping bill. At the present time, to be a motorcycle dealer or snowmobile dealer you have to have a dealer license which requires that you are licensed by the DOT which is seventy-five dollar and also to be bonded. At the present time, if you are an off-highway vehicle dealer and this refers to those individuals who specifically sell ATV's you

do not have to be a dealer. You don't have to have a dealer license and you do not have to be bonded. We recommend a DO PASS on this bill with some amendments.

Rep. Thorpe: You mentioned someone buying and selling a GoldWing, I thought if you were in the business you have to have a dealer license?

Caldwell: The current law to be a motor cycle dealer is that you have to have a place of business, and you have to have signage and you have to provide the customer support that goes along with the vehicle that you sell. A service and parts shop. There are a number of individuals who do not have a legit business and they have a dealer license but doesn't have a motor cycle business. He uses that license and trades with someone in MN; he rides around on it all summer and doesn't pay tax and title on it, because he has a dealer license. At the end of the summer, he sells it to a friend who then the friend gets the tax and title.

There was no further support for the bill. There was no opposition to the bill. The hearing was closed. No action was taken at this time.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1465

House Transportation Committee

Check here for Conference Committee

Hearing Date: 02-08-2007

Recorder Job Number: 3120

Committee Clerk Signature

Jim M Thomas

Minutes:

Chairman Ruby allowed committee discussion on HB 1465. Chairman Weisz was absent. HB 1465 relates to the definition of motor-powered recreational vehicles and to the licensing of motor-power recreational vehicles.

Rep. Ruby: This places motorcycles; ATV's and snowmobiles into a new category called motor-powered recreational vehicles. So it changes a lot of language dealing with that.

Rep. Gruchalla: This is the one that ATV dealers don't currently have to be licensed?

Rep. Ruby: Correct. This would put the ATV dealers into the same category and they would have to be licensed and bonded as such as the dealers for motorcycles and snowmobiles. I don't believe there were any amendments.

Rep. Owens: I would like to move an amendment, because this is the only part about this bill that bothers me is on page two line six, remove the overstrike from highway tax distribution fund, and remove the registration fund on line six and, I'm sorry, page four. And remove line seven. In other words, I want to leave it in the highway tax distribution fund.

Rep. Ruby: That wasn't the intent of the bill sponsor, but um.....any discussion on that?

Rep. Gruchalla: I think the money would go to the registration fund for enforcement of the chapter would mean the dealer to make sure they are complying to make sure they are licensed and bonded. They already do that for auto dealers.

Rep. Vigesaa: I would agree with Rep. Gruchalla. That is exactly what the funds would be used for and this may be written this way to be consistent with the auto dealers.

Rep. Ruby: It doesn't show what the negative impact would be by pulling that money out of the highway tax distribution fund.

Rep. Delmore moved a DO PASS. Rep. Owens seconded.

Roll Call Vote: 12 yes. 0 no. 1 absent.

Rep. Owen's motion did not receive a second, and therefore failed.

Carrier: Rep. Owens

FISCAL NOTE
 Requested by Legislative Council
 01/17/2007

Bill/Resolution No.: HB 1465

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 | | | | \$48,975 | | \$10,725 |
| Expenditures | | | | \$71,985 | | \$17,371 |
| Appropriations | | | | \$71,985 | | \$17,371 |

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 places motorcycles, ATVs and Snowmobiles into a new category, "Motor-powered Recreational Vehicle."

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.*

It is estimated that potentially there will be 400 – 500 dealers submit for licensing under this law. Revenue gain will be one-time fees paid for initial licensing. Expenditures are associated with the requirement to inspect each applicant prior to issuing a license.

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.*

Application revenue will increase by approximately \$48,975 during the one year application process. Afterwards, revenue will remain approximately \$10,725 above current forecast.

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.*

The Motor Vehicle Division will incur approximately \$71,985 of additional costs in 2007-2009 to implement this change. These costs are associated with establishing and managing the application and inspection process, completing all necessary documentation, and completing all inspections necessary, as well as purchasing additional dealer plates.

One time expenditures to implement this bill are estimated to cost \$43,721 for temporary staffing, \$14,184 for travel and per diem, and approximately \$14,080 for additional dealer plates. Subsequent biennial costs to support this bill will be approximately \$17,371 per biennium, primarily for travel and additional staffing.

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.*

With the increased cost to implement this change, the DOT will require an additional appropriation to comply with the requirements of the bill. The required amounts are \$71,981.79 for the 2007 biennium, and \$17,371.44 for the 2009 biennium.

| | | | |
|----------------------|-----------------|-----------------------|------------|
| Name: | Lorrie Pavlicek | Agency: | NDDOT |
| Phone Number: | 328-2725 | Date Prepared: | 01/24/2007 |

Date: 2-8-07
 Roll Call Vote #: 1

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

House Transportation 1465 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken to Amend

Motion Made By Owens Seconded By _____

| Representatives | Yes | No | Representatives | Yes | No |
|--------------------|-----|----|-----------------|-----|----|
| Chairman Weisz | | | Rep. Delmore | | |
| Vice Chairman Ruby | | | Rep. Gruchalla | | |
| Rep. Dosch | | | Rep. Myxter | | |
| Rep. Kelsch | | | Rep. Schmidt | | |
| Rep. Owens | | | Rep. Thorpe | | |
| Rep. Price | | | | | |
| Rep. Sukut | | | | | |
| Rep. Vigesaa | | | | | |
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Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

failed
 - remove line 7 page 4 -
 leave it in the Hwy tax distribution fund.

Date: 2-8-07
 Roll Call Vote #: 2

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

House Transportation 1465 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Delmore Seconded by Owens

| Representatives | Yes | No | Representatives | Yes | No |
|--------------------|-----|--------|-----------------|-----|----|
| Chairman Weisz | | Absent | Rep. Delmore | ✓ | |
| Vice Chairman Ruby | ✓ | | Rep. Gruchalla | ✓ | |
| Rep. Dosch | ✓ | | Rep. Myxter | ✓ | |
| Rep. Kelsch | ✓ | | Rep. Schmidt | ✓ | |
| Rep. Owens | ✓ | | Rep. Thorpe | ✓ | |
| Rep. Price | ✓ | | | | |
| Rep. Sukut | ✓ | | | | |
| Rep. Vigesaa | ✓ | | | | |
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Total Yes 12 No 0

Absent 1

Floor Assignment Owens

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

REPORT OF STANDING COMMITTEE (410)
February 8, 2007 11:37 a.m.

Module No: HR-27-2508
Carrier: Owens
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1465: Transportation Committee (Rep. Weisz, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1465 was placed on the
Eleventh order on the calendar.

2007 SENATE TRANSPORTATION

HB 1465

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1465

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: 4179

Committee Clerk Signature

Jody Hauge

Minutes:

Senator Gary Lee called the committee to order. The clerk called the attendance and there were 5-0-1. Senator Lee said that Senator Nething was in another hearing but he will be here (6-0-0). Senator Lee opened the hearing on HB 1465 relating to the definition of motor-powered recreational vehicles; and relating to the licensing of motor-powered recreational vehicle dealers.

Representative Hawken introduced the bill and testified in favor of HB 1465. It is basically pretty simple. As for the fiscal note, she said that they might not even need one.

Senator Lee said in regard to the deposition of fees taking from Highway Tax Distribution Fund and putting them into Registration Fund for the enforcement of this, he asked if there was a reason for that?

Rep. Hawken (Can't make out).

Annette Behm-Caldwell, Dealer at Open Road Honda and Vice President of the ND Powersports Dealers Association explained the bill and testified in favor of it. (Written testimony enclosed). She also stated that they had some proposed amendments.

Senator Potter asked who are these people that are selling the ATV without licenses. Are they selling out of their garage or house or Cenex?

Annette said that they are selling out of their homes, garages, Cenex stations, Checker Auto, and even out of semi-trailers. Annette said that it was not a huge problem in ND but it is a fast growing problem across the country.

Senator Potter said that Checker Auto must be paying taxes on the sales.

Annette said that she would presume that Checker Auto probably is paying taxes because they wouldn't want to risk their business but the person out of the trailer truck or garage may or may not be, but the issue is if they do not and they go out of business there is no recourse.

Senator Potter asked if that was the purpose of the bond.

Annette said the bond isn't that much but at least the state would have something. She said 99.9 % of the ATV dealers in the state are legitimate business people but it makes sense as the industry changes to combine all of these into one Motor Power Recreational Vehicle Dealer License.

Senator Potter asked if there was any opposition in the House.

Annette said it passed overwhelmingly.

Senator Andrist said he didn't have any problems with the bill but he was concerned about the Motor Vehicle Registration Fund. He asked if this would be a new fund that we are creating or does it exist right now. He said he would rather the money flow into the General Fund and then be appropriated.

Annette said that dealers gives \$75. per year, we don't care where the money comes from to pay for enforcement we just want enforcement.

Senator Lee said that what you are asking for is to have motorcycles, snowmobiles and ATV all in one category called Motor Powered Recreational Vehicles and if you sell them you have to be licensed and you pay the \$75. fee and you have a \$10,000. bond.

Annette answered yes.

Kari Wanner, Executive Director for the ND Powersports Dealers Association testified in favor of HB 1465. Her written testimony is enclosed.

Senator Andrist asked about the small businesses in rural ND that sells one or two ATV a year at the request of a customer. Will they be exempted? An example would be a Cenex dealer.

Keri Wanner said that more than likely they have a license already. We are really trying to stop the individual who is selling them out of their garage or van. She also stressed the problem of service for the customer.

Senator Lee said if he bought three Hondo ATVs and took them to his community and sold them out of his Cenex dealership, did he have to have a license to sell them?

Annette said no because they would be titled in an individual name. If you would bring in a line of ATVs and sign a commitment with a manufacture then you would need a license.

Jerry Auch, North Dakota Dept. of Transportation clarified the bill and how it works. He also explained the Fiscal Note and also said that they charge \$50 in addition to the license and this \$50. fee is only charged once.

Senator Bakke asked if this selling without a license is a growing problem in the state.

Jerry Auch said because of the price of ATVs it is becoming more of a problem.

Senator Andrist asked if they had a report of the revenue on the Motor Vehicle Fund.

Jerry Auch said he was not prepared to answer that question but he was sure they had a surplus of funds.

Senator Andrist asks if NDDOT would have a problem leaving the money in the Highway Distribution Fund.

Jerry Auch did not feel comfortable answering that.

Senator Lee closed the hearing on HB 1465.

Discussion followed on distribution of funds. The committee would like more information on the Motor Vehicle Fund before they take action on the Bill.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1465

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: March 2, 2007

Recorder Job Number: 4237 & 4239

Committee Clerk Signature

J. Roy Hough

Minutes:

Senator Lee opened committee work on HB 1465 relating to the licensing of motor-powered recreational vehicle dealers.

Lorrie Pavlicek, Director of Motor Vehicle Division had supplied the committee with a written copy of information on the Dealer Enforcement Fund. The Dealer Enforcement Fund was created to support enforcement of the Motor Vehicle Dealer Licensing chapter of the ND Century Code (39-22). Fees from dealer registration and fees collected for violations of this chapter make up this fund.

Senator Lee asked Lorrie about the licensing of a Motor-power Recreational Vehicle license and how the fees go into the fund. He asked Lorrie if that is where the enforcement money comes from and that money is used for enforcement of time spent to check on these agencies. He asked if a person licensed his motorcycle does that go into the Highway Tax Distribution Fund.

Lorrie said this bill will change that so the Powered Recreational Vehicle fees go into the Motor Vehicle Registration Fund and those dollars would be used for enforcement and education for dealers. Is that what you are asking?

Senator Lee continued, but if we have to license a particular vehicle (ATV, Snowmobile, motorcycle) that license that is paid for and put on the back , that money doesn't go to this fund.

Lorrie, said that is correct. The dollars that go in are the dollars that the dealers pay not the individual who is licensing their vehicle. Some of the dollars can be dispersed out to other agencies, for example, some of the snowmobile money would go to State Parks and Recreation to maintain the trails.

Senator Andrist asked about the current balance in the fund.

Lorrie said that the current balance in the fund is a little bit higher than their expenditures.

Senator Lee asked if 2001 was the year the law changed to allow this.

Lorrie answered that he was correct. She also wanted to say that they were doing more educational types of activities and prevention activities with the dealers in addition to the compliance.

Recorder Job 4239 10:22 – 14:31

Senator Lee opened discussion on HB 1465 relating to the licensing of motor-powered recreational vehicle dealers.

Senator Potter brought up the information that Annette Behm-Caldwell, a dealer at Open Road Honda had brought some proposed amendments with her when she testified on March 1, 2007. Discussion followed whether the amendments were appropriate for the bill and what they were trying to do.

Senator Potter moved for a Do Pass and to be rerefered to Appropriations.

Senator Nething seconded the motion.

The clerk called the roll 6-0-0.

Senator Bakke will carry the bill.

REPORT OF STANDING COMMITTEE (410)
March 2, 2007 12:46 p.m.

Module No: SR-40-4325
Carrier: Bakke
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1465: Transportation Committee (Sen. G. Lee, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1465 was rereferred to the Appropriations Committee.

2007 SENATE APPROPRIATIONS

HB 1465

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1465

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: March 15, 2007

Recorder Job Number: 5142

Committee Clerk Signature

Janet Pinks

Minutes:

Senator Bowman opened the hearing on HB 1465.

Representative Hawkins introduced the bill. This bill started out as a name change. She personally has some difficulty with the fiscal note. The vast majority of these dealers sell multiple types of equipment so we are not talking about re-inspecting a lot of new people so the fiscal note might be high. The inspection is to be sure they are legitimate so it is not extensive, it could be accomplished by driving down the street. She encourages the support of the committee.

Annette Behm-Caldwell, Dealer Principal of Open Road Honda and Vice President of the North Dakota Powersports Dealers Association, testified in favor of the bill. (Written testimony attached) This bill will protect consumers by making ATV dealers follow the same rules as snowmobile and motorcycle dealers. Century code requires motorcycle dealers to pay a \$75 annual fee, have a place of business, service the units they sell and have a working phone line.

Senator Bowman asked if the fees offset the inspection cost. He was told someone else will testify about this.

Senator Christmann asked besides the \$75 license fee, how much does the bond cost.

Ms. Behm-Caldwell said \$100 per year.

Senator Lindaas asked if three wheelers, four wheelers and snowmobiles have titles issued with them or is this something new.

Ms. Behm-Caldwell said ATV's have a manufacturer's statement of origin and state law requires they be titled.

Senator Lindaas said he has a three wheeler and it did not come with a title.

Ms. Behm-Caldwell said when he purchased it he would have received a manufacturer's statement of origin. To title the unit, he could fill out a form and the Highway Patrol would do a VIN inspection, it is a method for older units to be titled.

Senator Wardner said the Motor Vehicle Registration Fund is within the Highway Tax Distribution Fund so they are one and the same, it is not contradictory language.

Senator Krebsbach asked how many people would fall under just the ATV licensure.

Ms. Behm-Caldwell said she does not know; if she had to guess, she would say 20 – 30.

Senator Krebsbach asked if they do have to register for a sales tax permit.

Ms. Behm-Caldwell said yes, they should already have a sales tax permit.

Keri Wanner, Executive Director of the North Dakota Powersports Dealers Association, testified in favor of the bill. (Written testimony attached)

Senator Christmann asked how many licensed snowmobile and motorcycle dealers there are and how that compares to how many are members of her organization.

Ms. Wanner said last fall there were approximately 130 dealers. They have 15 – 20 members. They do send all their mailings to all registered dealers. The organization was very strong in the early 90's and then lost membership and is strengthening now.

Lori Pavlacheck, Motor Vehicle Director for the Department of Transportation, appeared to answer questions.

Senator Fischer asked if the fiscal note was calculated to inspect every ATV dealer in the state.

Ms. Pavlacheck said yes, they did because that would be a responsibility they would have.

Senator Fischer asked if existing licensed snowmobile or motorcycle dealers were counted in the calculation.

Ms. Pavlacheck said yes. The only sports vehicles included in a dealer inspection are motorcycles because they do license and inspect motorcycle dealers. ATV's and snowmobiles are not handled through dealerships. Once they are licensed as a dealership, they have a responsibility for the initial inspection.

Senator Fisher asked if she feels they would spend the amount of money in the fiscal note.

Ms. Pavlacheck said they would, the way the bill is written, they would only need to do an initial inspection upon application where motor vehicle dealers are inspected every year. They would need to staff that and they would need travel dollars.

Senator Tallackson asked who enforces this?

Ms. Pavlacheck said it is a combination of enforcement by law enforcement and motor vehicle tax and compliance that steps in when they get complaints. They can impose sanctions towards the dealership for violations.

Senator Krauter asked why the fiscal note talks about 400 – 500 dealers when we have heard testimony there are 130.

Ms. Pavlacheck said that is based on their knowledge and experience level with individuals and facilities that sell a variety of different powered sports recreational vehicles that could potentially fall under this bill.

Senator Krauter said that is quite a variance.

Senator Krebsbach asked if all motorcycle, snowmobile and ATV dealers are included in the 400 number and could some already be licensed.

Ms. Pavlacheck said they now have 71 licensed motorcycle dealers. It is possible but unlikely they are duplicating numbers because most of these individuals don't fall under their normal motor vehicle dealer licensing laws. The numbers could potentially be this high.

Senator Krebsbach asked who does the inspections.

Ms. Pavlacheck said they have 2 individuals on her staff that can do inspections but they have many other responsibilities. They also hire on a temporary basis, four individuals across the state to do inspections.

Senator Lindaas asked if they license the little electric cars. Does inspection make 4 wheelers street legal?

Ms. Pavlacheck said yes, they do license electric cars. Four wheelers are not necessarily street legal. There are various sections of law that deal with licensing requirements for different kinds of vehicles.

Senator Christmann said he is trying to get the numbers to make sense. Did she say only motorcycle dealers currently need to be licensed, not snowmobile? Ms. Behm-Caldwell said in her testimony that snowmobile dealers must be licensed and bonded.

Ms. Pavlacheck said licensing and registering a vehicle vs. the dealership are two different things. The dealer licensing is currently only the motorcycle. This bill would add in all the different types of potential dealers.

Senator Christmann confirmed the snowmobile dealer does not have to have a dealer license.

Ms. Pavlacheck said that is correct.

Senator Christmann confirmed there are 71 licensed motorcycle dealers and Keri said there are about 130. Why are these numbers different?

Ms. Pavlacheck said she doesn't want to contradict her numbers but those were her membership numbers.

Senator Christmann said the membership numbers were around 20, she thought there were about 130 snowmobile and motorcycle dealers.

Ms. Wanner said the 130 were numbers she saw on another motorcycle dealers list.

Senator Christmann said when he sees 400 – 500 additional dealers, that would be at least 10 in his district. He knows of one small dealer. He doesn't think there are 10. He can't imagine there are 400 – 500 in the state. How did she arrive at those numbers?

Ms. Pavlacheck said it is possible we may tend to think dealerships are only the places that look like dealerships. They have signs and they are selling all kinds of vehicles. Honda is a big dealership with a big building. There are also very small entities who function as dealers and they are not very visible to the general public but they would potentially fall under this jurisdiction.

Senator Christmann asked if the number came from a sales tax list.

Ms. Pavlacheck said she does not have the supporting data for her numbers but she could get it to him.

Senator Bowman closed the hearing on HB 1465.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1465

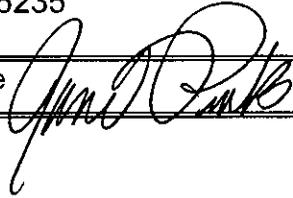
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 03-16-07

Recorder Job Number: 5235

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on HB 1465.

Senator Bowman indicated there was some question on the bill and amendments have been submitted to make the bill work.

Senator Bowman moved approval of the amendments, Senator Wardner seconded.

Discussion was held. An oral vote was taken resulting in a do pass on the amendments.

Senator Bowman moved a do pass on the bill as amended, Senator Wardner seconded.

Discussion was held. A roll call vote was taken resulting in 10 yes, 2 no, 2 absent. The motion carried and Senator Potter will carry the bill.

Chairman Holmberg closed the hearing on HB 1465.

Date: 3/16
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1465

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP as amend

Motion Made By Bowman Seconded By Lindaas

| Senators | Yes | No | Senators | Yes | No |
|--------------------------------|-----|----|---------------------------|-----|----|
| Senator Ray Holmberg, Chrm | | ✓ | Senator Aaron Krauter | ✓ | |
| Senator Bill Bowman, V Chrm | ✓ | | Senator Elroy N. Lindaas | ✓ | |
| Senator Tony Grindberg, V Chrm | | | Senator Tim Mathern | ✓ | |
| Senator Randel Christmann | | ✓ | Senator Larry J. Robinson | ✓ | |
| Senator Tom Fischer | | | Senator Tom Seymour | ✓ | |
| Senator Ralph L. Kilzer | ✓ | | Senator Harvey Tallackson | ✓ | |
| Senator Karen K. Krebsbach | ✓ | | | | |
| Senator Rich Wardner | ✓ | | | | |
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Total (Yes) 10 No 2

Absent 2

Floor Assignment Potter Trans

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

REPORT OF STANDING COMMITTEE

HB 1465: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). HB 1465 was placed on the Sixth order on the calendar.

Page 1, line 3, after "sections" insert "39-22-05.1,"

Page 1, line 5, after "to" insert "deposit of dealer enforcement funds and"

Page 1, after line 10, insert:

"SECTION 2. AMENDMENT. Section 39-22-05.1 of the North Dakota Century Code is amended and reenacted as follows:

39-22-05.1. Disposition of fees. Fees from registration of dealers and fees collected from dealers found in violation of this chapter must be deposited with the state treasurer, credited to the ~~motor vehicle registration~~ dealer enforcement fund, and used exclusively for enforcement of this chapter."

Page 4, line 6, replace "the registration" with "dealer enforcement"

Renumber accordingly

2007 TESTIMONY

HB 1465

**Testimony - House Bill 1465
House Transportation Committee
January 26, 2007**

Testimony presented by Annette Behm-Caldwell
Dealer Principal – Open Road Honda, Mandan
Vice-President, North Dakota Powersports Dealers Association

The North Dakota Powersports Dealers Association (NDPDA) recommends a vote of Do Pass with the proposed amendments.

I ask the committee to consider the following:

- **Consumer Protection:** At the present time there is no recourse for consumers or the State of ND if an Off-Highway (ATV) dealer collects tax, title and closes their business without submitting collected monies to the state.
- What recourse is available if an Off-Highway dealer does not provide the customer with an MSO (Manufacturer Statement of Origin) and closes their business?
- Dealership license fee of \$75.00 will generate additional revenue for the Department of Transportation which can be used to better enforce the Dealer requirements.
- There will be no negative impact or additional cost to current motorcycle and/or snowmobile dealers as they already hold a dealer license.
- Enforcement of the Chapter (39:22.3-06) will flush out those individuals who obtain a dealer license solely for the purpose of avoiding sales tax and title charges on the units they purchase for individual use. In some instances, these machines are resold which violates the definition of a dealer in chapter 51-20-01 because the individual is unable to provide customer services on the machine like a legitimate shop in a dealership.

**Testimony - House Bill 1465
House Transportation Committee
January 26, 2007**

Page 2

The NDPDA also submits the proposed amendments.

1. Clarification and correction in two sections:
 - 39-22.3-06 which states "funds are deposited with the State Treasurer and credit to the highway tax distribution fund"
 - 39-22-05.1. which states "funds are deposited with State Treasurer and credit to Motor Vehicle Registration Fund and use exclusively for enforcement of this chapter".

The NDPDA would like to see the funds deposited with the Motor Vehicle Registration fund to ensue the inspections can be funded and completed according to the Century Code requirements.

2. Add the definition of a "motor-powered recreational vehicle" to chapter 51-20-01 and change the definition of dealer to "means a person, partnership, corporation, limited liability Company, or other business entity which sells at retail and services new motor-powered recreational vehicles".

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1465

Dealer Enforcement Fund

The Dealer Enforcement Fund was created to support enforcement of the Motor Vehicle Dealer Licensing chapter of the ND Century Code (39-22). Fees from dealer registration and fees collected for violations of this chapter make up this fund. They are used, specifically for:

- Travel requirements to visit, investigate and train dealers
- Lodging for overnight requirements
- Meals
- Training to ensure dealers know and understand the provisions of the chapter
- Mail to support the process
- Equipment, such as computers, to support the process
- Meeting rooms, as needed for training
- Projector equipment, as needed for training
- Documentation printing and publication to provide training and information as needed

No other expenditures are associated with this fund at this time.

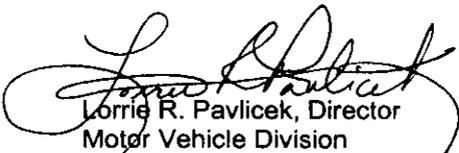
Fund History:

2001 Biennium Total Collection: \$465,909

2003 Biennium Total Collection: \$330,473

2005 Biennium Collect To Date: \$292,274

Funds are collected and transferred into the Motor Vehicle Registration Fund, and are used exclusively to support the enforcement program, per ND Century Code 39-22-05.1.


Lorrie R. Pavlicek, Director
Motor Vehicle Division
3/1/07

TESTIMONY – HOUSE BILL 1465
SENATE TRANSPORTATION COMMITTEE
MARCH 1, 2007 – 9:00 AM
LEWIS & CLARK ROOM

Some given to Senate Approp's

Mr. Chairman and members of the Senate Transportation Committee, my name is Keri Wanner and I am the Executive Director for the North Dakota Powersports Dealers Association. The Association is a network of professional Powersport Dealers dedicating time and resources to protect, preserve and expand powersports dealers and the organizations associated with them. I appear today in support of House Bill 1465 relating to the definition of motor-powered vehicles and the licensing of motor-powered vehicle dealers.

The North Dakota Powersports Dealers Association recommends a vote of Do Pass with the following proposed amendments.

1. Clarification and Correction in sections 39-22.3-06 and 39-22-05.1. Currently section 39.22.3-06 states "funds are deposited with the State Treasurer and credit to highway tax distribution fund" and section 39-22-05.1 states "funds are deposited with State Treasurer and credit to Motor Vehicle Registration Fund and use exclusively for enforcement of this chapter. The North Dakota Powersports Dealers Association would like to see the funds deposited into the Motor Vehicle Registration fund to ensure the inspections can be funded and completed according to the Century Code requirements.
2. Add the definition of a "motor-powered recreational vehicle" to chapter 51-20-01 and change the definition of dealer to "means a person, partnership, corporation, limited liability company, or other business entity which sells at retail and services new motor-powered recreational vehicles".

The North Dakota Powersports Dealers Association pursued HB 1465 to ensure all motor-powered recreational vehicles dealers in the state are required to be registered with the state. This shall ensure funding to help cover the costs of dealer inspections which are required by the Century Code in chapter 39-22-05.1. The inspections are extremely necessary in determining legitimate dealers in North Dakota. At the current time individuals are registering as motorcycle dealers in order to purchase machines without having to pay sales tax. In some instances these machines are resold which violates the definition of a dealer in chapter 51-20-01 because the individual is unable to provide customer service on the machine like a legitimate shop in a dealership.

House Bill 1465 is a bill with the full support of the powersports dealers community with the proposed amendments. We ask for a vote of DO PASS on House Bill 1465 with the proposed amendments outlined in my testimony.

Mr. Chairman this concludes my remarks; I would be pleased to answer any questions the committee may have.

**Testimony - House Bill 1465
Senate Transportation Committee
March 1, 2007**

Testimony presented by Annette Behm-Caldwell
Dealer Principal – Open Road Honda, Mandan
Vice-President, North Dakota Powersports Dealers Association

If passed, the separate recreational vehicle dealer licensing for motorcycle, snowmobile and ATV dealers would be combined into one "Motor-powered recreational vehicle" license.

The North Dakota Powersports Dealers Association (NDPDA) recommends a vote of Do Pass with the proposed amendments.

I ask the committee to consider the following:

- ATV dealers are not licensed by the state unlike motorcycle and snowmobile dealers who must pass dealer requirements and hold a \$100,000 bond. At the present time there is no recourse for consumers or the State of ND if an Off-Highway (ATV) dealer collects tax, title and closes their business without submitting collected monies to the state.
- Today there is not recourse available if an Off-Highway dealer does not provide the customer with an MSO (Manufacturer Statement of Origin) and closes their business?
- Dealership license fee of \$75.00 will generate additional revenue for the Department of Transportation which can be used to better enforce the Dealer requirements.
- There will be no negative impact or additional cost to current motorcycle and/or snowmobile dealers as their current motorcycle/snowmobile license will next year be renewed as a motor-powered recreational vehicle dealer license.

Testimony - House Bill 1465
Senate Transportation Committee
March, 1, 2007

Page 2

The NDPDA also submits the proposed amendments.

1. Clarification and correction of contradictory language in two sections:
 - 39-22.3-06 which states 'funds are deposited with the State Treasurer and credit to the highway tax distribution fund'
 - 39-22-05.1. which states "funds are deposited with State Treasurer and credit to Motor Vehicle Registration Fund and use exclusively for enforcement of this chapter".

The NDPDA would like to see the funds deposited with the Motor Vehicle Registration fund to ensue the inspections can be funded and completed according to the Century Code requirements.

2. Add the definition of a "motor-powered recreational vehicle" to chapter 51-20-01 and change the definition of dealer to "means a person, partnership, corporation, limited liability Company, or other business entity which sells at retail and services new motor-powered recreational vehicles".

(1)

Testimony - House Bill 1465
Senate Appropriations Committee
March 15, 2007

Testimony presented by Annette Behm-Caldwell
Dealer Principal – Open Road Honda, Mandan
Vice-President, North Dakota Powersports Dealers Association (NDPDA)

The NDPDA is a network of professional powersport dealers, dedicating time and resources to protect, preserve and expand their businesses and the organizations associated with them.

We thank Rep Hawkens for introducing this bill on behalf of the NDPDA.

At the present time motorcycle dealers must have a current dealer's license to do business in North Dakota. Snowmobile dealers must also have a dealer license. Motorcycle and snowmobile dealers must meet the guidelines as stated in the century code and hold a \$10,000 bond.

Individuals or businesses that sells ATV's in North Dakota are not required to have a dealer's license.

If HB 1465 is passed, ATV dealers would be licensed and the separate recreational vehicle dealer licensing for motorcycle, snowmobile and ATV dealers would be combined into one "Motor-powered recreational vehicle" license.

The North Dakota Powersports Dealers Association (NDPDA) recommends a vote of Do Pass with the proposed amendments.

I ask the committee to consider the following:

- ATV dealers are not licensed by the state unlike motorcycle and snowmobile dealers. There is no recourse for consumers or the State of ND if an ATV dealer collects tax, title and closes their business without submitting collected monies to the state.
- Today there is not recourse available if an ATV dealer does not provide the customer with an MSO (Manufacturer Statement of Origin) and closes their business.

Testimony - House Bill 1465
Senate Appropriations Committee
March, 13, 2007

Page 2

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- There will be no negative impact or additional cost to current motorcycle and/or snowmobile dealers as their current motorcycle/snowmobile license will next year be renewed as a motor-powered recreational vehicle dealer license.

The NDPDA also submits the proposed amendments.

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2. Add the definition of a "motor-powered recreational vehicle" to chapter 51-20-01 and change the definition of dealer to "means a person, partnership, corporation, limited liability Company, or other business entity which sells at retail and services new motor-powered recreational vehicles".

39-01-01. Definitions.

Text

In this title, unless the context or subject matter otherwise requires:

6. "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

21. "Fifth-wheel travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

27. "House car" or "**motor home**" means a motor vehicle which has been reconstructed or manufactured primarily for private use as a temporary or recreational dwelling and having at least four of the following permanently installed systems:

- a. Cooking facilities.
- b. Icebox or mechanical refrigerator.
- c. Potable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both.
- d. Self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, or both.
- e. Heating or air-conditioning system, or both, separate from the vehicle engine or the vehicle engine electrical system.
- f. A 110-115 volt alternating current electrical system separate from the vehicle engine electrical system either with its own power supply or with a connection for an external source, or both, or a liquefied petroleum system and supply.

86. "**Travel trailer**" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require a special highway movement permit when towed by a motorized vehicle.