

2011 HOUSE TRANSPORTATION

HB 1173

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee  
Fort Totten Room, State Capitol

HB 1173  
01/21/2011  
Job # 13219

Conference Committee

Committee Clerk Signature *Jeanette Cook*

## Explanation or reason for introduction of bill/resolution:

This is a bill relating to when headlights and tail lamps are required to be illuminated on a motor vehicle.

## Minutes:

Attachment #1

**Representative Gruchalla**, District 45 in North Fargo introduced HB 1173. He explained that this is a simple bill that is important. The bill before it changes allows someone to neglect the operation of their headlights and taillights, if their vehicle is equipped with running lamps. In many of the crashes in poor visibility situations tail lights aren't on in cars, and it is causing some problems.

**Vice Chairman Weiler**: Was there a problem with someone driving on the highway without their headlights or taillights on, but they had their running lights on? Is this the point of this bill?

**Representative Gruchalla**: It is basically the fact that some lights come on automatically, some cars have an automatic switch that turns on in low visibility, the taillights and headlights may or may not come on at the same time.

**Vice Chairman Weiler**: Was there actually someone who got a ticket and tried to get off because they said that the law says, "lighted lamps"?

**Representative Gruchalla**: Yes, some people are not turning the switch, so the taillights do not come on.

**Chairman Ruby**: Do we always have to have headlights on in the rain?

**Representative Gruchalla**: Yes, in inclement weather.

**Representative Onstad**: In some vehicles the headlamps and taillights come on automatically together. Then in other vehicles it is only the headlights that come on automatically. Is that correct?

**Representative Gruchalla**: That is correct.

**Representative Onstad:** So, are we basically asking that all headlights and taillights be on at all times?

**Representative Gruchalla:** That is correct.

**Representative R. Kelsch:** In other words, when my automatic switch is on, and my headlights are always on, I always thought that my taillights were on too. If they are not, I am going to have to switch another switch at that time. Won't I be more distracted at that point?

**Chairman Ruby:** I suppose that everyone should check to see if their automatic headlights go on, that the taillights go on as well.

**Representative Vigesaa:** If you have automatic headlights, they will turn on the tail lights as well.

**Mike Reitan, Assistant Chief, West Fargo Police Department,** spoke to support HB 1173 and provided prepared written testimony. See attachment # 1.

**Representative Weisz:** Currently now, if I am driving with one headlight, you will stop me and give me a fix-it ticket. Correct?

**Mike Reitan:** Yes, we would give you a equipment fix .... (interrupted)

**Representative Weisz:** Considering we are in North Dakota, I could hit a pheasant and take out one of my lights. Under this proposal, if I had one headlight, I shouldn't drive anymore. Is that correct? I wouldn't get a fix-it ticket; I would get a ticket like any other traffic violation?

**Mike Reitan:** Yes, it would be a violation, but I feel that the intent of the law when it was originally passed was that a vehicle would have two working headlights. The statute explains the specifications, and then it says that those lamps need to be illuminated in times of darkness and inclement weather. So, if your headlamp is broken, whether it is on that trip or not, it still presents a safety factor in decreased visibility for you as a driver, as well as the optical illusion to the other drivers out there. A single light which appears in the distance may be a time when a driver chooses to pass, only to realize that it really was a closer vehicle with only one head lamp.

**Representative Weisz:** I agree with what you said, but it seems like the current process works well. What am I supposed to do? I am fifty miles from anywhere, and it is eleven o'clock at night. Am I supposed to park my vehicle and sleep in it until morning? The idea of a fix-it ticket seems like a better idea. They could continue to stop you until you get to your destination. It is not like I can just go two blocks and get to a service station to get a headlight put in. I am not disagreeing with what you say, but there is the reality of what causes headlights to be out. If we are going to take it to the point of issuing an actual ticket for everything instead of a fix-it, then technically you shouldn't be driving at all.

**Mike Reitan:** I am not looking at issuing a citation, if you only have one headlight. What this is to cure is the defense attorney's argument that you could have one headlight and a nine volt flashlight taped to the side of the vehicle the way that the law is currently written. Even though the intent of the law is to have two headlights, the attorney is using this as a loophole. We want you to have two headlights and two taillights. The way the law is written now, an officer can issue a driver a citation for having one headlight, or he can issue a fix-it ticket. Many drivers do not even know that they have a headlight out. Stopping of vehicles for one headlight will continue. This is meant just to clean up the language that defense attorneys have begun to use as a loophole to get people out of violations.

**Vice Chairman Weiler:** Is this a large problem? Does this happen a lot, or are we changing the law for one instance?

**Mike Reitan:** Past experience has been that once a defense attorney keys into a particular loophole, it tends to be used again. The cleaning of the language just further defines what the intent of the body here was.

**Vice Chairman Weiler:** So, the problem, to me, isn't in the law, the problem would be the defense attorneys.

**Representative Vigesaa:** I agree that you are just trying to define what lamps means. Did you say that there is another section that indicates that it needs to be tail lamps and headlamps on both sides of the vehicle?

**Mike Reitan:** Yes, there is specific statute that says how high a headlight is, how many lumens it is, how far down the road it lights up, how they are to be adjusted, tail lamps, how far away you are supposed to be able to see them, colors, and there are many pages of how the equipment is supposed to be on your vehicle. This just refers back to when they need to be lit, and that they need to comply with those previous mentioned sections.

**Chairman Ruby:** If it is not in statute, it is certainly in administrative code.

**There was no further support for HB 1173.**

**There was no opposition to HB 1173.**

The hearing on HB 1173 was closed.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee  
Fort Totten Room, State Capitol

HB 1173  
02/03/2011  
Job # 13948

Conference Committee

Committee Clerk Signature *Jeanette Cook*

## Minutes:

**Chairman Ruby** brought HB 1173 before the committee and reviewed the bill.

**Representative Gruchalla:** This bill came out of a situation. The law is a bit archaic where it says lighted lamps. A car was stopped for having a headlight out, and it turned into a DUI. Then, the defense attorney was able to make the case that the vehicle had two lighted lamps because it had a parking light on one side and a headlight on the other. This bill would make it clear that when it is dark or inclement weather, you have to have two headlights and taillights both turned on.

**Representative Gruchalla** moved a **DO PASS** on HB 1173.

**Representative Onstad** seconded the motion.

**Representative R. Kelsch:** The purpose of this bill is to fix the loophole in the law.

**Representative Delmore:** What is the fine for having your lights out?

**Representative R. Kelsch:** It is supposed to be just a fix-it ticket. If you are stopped again it is up to twice as much.

**A roll call vote was taken. Aye 13 Nay 0 Absent 1 The motion carried.**

**Representative Onstad will carry HB 1173.**

Date: 2-3-11

Roll Call Vote #: \_\_\_\_\_

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1173

House TRANSPORTATION Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By E. Gruchalla Seconded By Onstad

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby	X		Representative DeImore	X	
Vice Chairman Weiler			Representative Gruchalla	X	
Representative Frantsvog	X		Representative Hogan	X	
Representative Heller	X		Representative Onstad	X	
Representative R. Kelsch	X				
Representative Louser	X				
Representative Owens	X				
Representative Sukut	X				
Representative Vigasaa	X				
Representative Weisz	X				

Total (Yes) 8/13 No 0

Absent 1

Floor Assignment Onstad

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

**REPORT OF STANDING COMMITTEE**

**HB 1173: Transportation Committee (Rep. Ruby, Chairman) recommends DO PASS**  
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1173 was placed on the  
Eleventh order on the calendar.

A handwritten signature in cursive script that reads "Dan Ruby".

2011 SENATE TRANSPORTATION

HB 1173

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee  
Lewis and Clark Room, State Capitol

HB 1173  
March 25, 2011  
16018

Conference Committee

*Hauge*

## Explanation or reason for introduction of bill/resolution:

Relating to when headlamps and taillamps are required to be illuminated on a motor vehicle.

## Minutes:

*Written testimony*

**Chairman Senator G. Lee** opened the hearing on HB 1173.

**Representative Gruchalla**, District #45, introduced HB 1173. This simple change in HB 1173 will add some clarity to the law. The word lamp came from the horse and buggy days when there was actually a lamp on the buggy for headlights. Some of the defense attorneys are using this arcade language in the law to defend their clients.

**Mike Reitan**, Assistant Chief, West Fargo Police Department, testified in support of HB 1173. The bill is meant to clarify language within section 39-21-01 of the North Dakota Century Code to fulfill what was the intent under which the original law was passed. The additional language proposed will provide for a clear dictate as to which lights must be lit. See written testimony #1

**Senator Lee** asked why there was opposition in the House.

**Mr. Reitan** replied that there was concern that there would be additional enforcement as the result of this bill. He said that this bill does not encourage any additional enforcement it is only covering a loop hole in the law that defense attorneys have begun to exploit.

**Senator Nodland** asked if going from lighted lamps to lighted headlights and taillamps will change anything.

**Mr. Reitan** replied no. The lighting requirements have not changed.

**No Opposing testimony.**

**Senator Lee** closed the hearing on HB 1173.

Senate Transportation Committee

HB 1173

March 25, 2011

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**Senator Nething** moved a **Do Pass**.

**Senator Oehlke** seconded the motion.

Roll call vote: 6-0-0. **Motion passed**.

Carrier is **Senator Nething**.

**2011 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1173**

Senate Transportation Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Senator Nething Seconded By Senator Oehl

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator Tim Mathern	✓	
Vice Chairman Dave Oehlke	✓				
Senator Dave Nething	✓				
Senator George Nodland	✓				
Senator Margaret Sitte	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Nething

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

**REPORT OF STANDING COMMITTEE**

**HB 1173: Transportation Committee (Sen. G. Lee, Chairman) recommends DO PASS**  
**(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1173 was placed on the**  
**Fourteenth order on the calendar.**

2011 TESTIMONY

HB 1173

Transportation Committee  
House Bill 1173  
Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

Good Morning

Chairman Ruby, Vice Chair Weiler and members of the Committee, for the record my name is Mike Reitan, Assistant Chief of the West Fargo Police Department. I am testifying today in support of House Bill 1173.

The bill before you today is meant to include language into section 39-21-01 of the North Dakota Century Code to fulfill the intent under which the original law was passed.

During a recent administrative hearing relating to a driving privilege suspension the hearing officer ruled NDCC 39-21-01 was vague as to which lights were required to be lit. Even though no headlight was illuminated on one side of the vehicle he believed the other lights that were lit met the intent of the law. If we are to further follow the logic of the hearing officer you should be able to drive without any headlights illuminated as long as other lights were present. For a safety aspect I believe him to be wrong.

You have probably met a vehicle at night upon the road that startled you. You mistook the single beam to be that of a vehicle in the distance or possibly a motorcycle. Suddenly, your headlights illuminate the body of a larger vehicle with a burnt out headlight. What could have happened had you based a left hand turn or a pass on the distant car perception?

A common man would read the statute about lighting equipment and understand the intent. I ask you to please vote yes on House Bill 1173 to clearly define those lights which must be lit.

Thank you for your time this morning. I will take any questions you may have.

Transportation Committee  
House Bill 1173  
Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

# 1

Transportation Committee  
House Bill 1173  
Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

Good Morning  
Chairman Lee, Vice Chair Oehlke and members of the Committee, for the record my name is Mike Reitan, Assistant Chief of the West Fargo Police Department. I am testifying today in support of House Bill 1173.

The bill before you today is meant to clarify language within section 39-21-01 of the North Dakota Century Code and to fulfill what I believe was the intent under which the original law was passed.

You have probably met a vehicle at night upon the road that startled you. You mistook the single beam to be that of a vehicle in the distance or possibly a motorcycle. Suddenly, your headlights illuminate the body of a larger vehicle with a burnt out headlight. What could have happened had you based your decision to execute a left hand turn or a pass on the distant car perception?

During a recent administrative hearing relating to a driving privilege suspension the hearing officer ruled in favor of the defense that NDCC 39-21-01 was vague as to which lights were required to be lit. Even though no headlight was illuminated on one side of the vehicle he believed the other lights that were lit met the intent of the law. If we are to further follow the logic of the hearing officer you should be able to drive without any headlights or taillights illuminated as long as other lights were present. From a safety aspect I believe his logic to be flawed.

A common man should be able to read the statute about lighting equipment and understand the original sponsor's intent. The additional language proposed here today will provide for a clear dictate as to which lights must be lit. I ask you to please vote yes on House Bill 1173.

Thank you for your time this morning. I will take any questions you may have.