

2011 HOUSE TRANSPORTATION

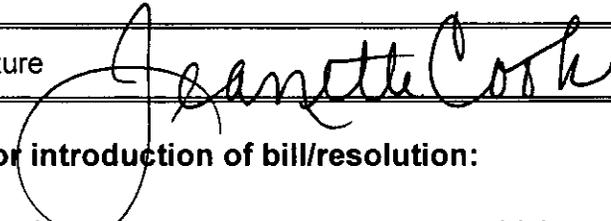
HB 1349

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

HB 1349
01/27/2011
Job # 13592

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

This is bill relating to requirements to operate a motor vehicle to transport agricultural products; and to provide a penalty.

Minutes:

Attachment #1-6

Representative John Wall, District 25, introduced HB 1349. He stated that the purpose of this bill is to make our highways safer. He provided written testimony and amendments. See attachments #1 and 2.

Representative John Wall: I realize that a citizen has offered potential amendments via e-mail. I want to publically state that I have no problem with this. I trust this committee's judgment in making changes to the bill. I respectfully ask that the final product will in some way keep the worst of the worst from getting behind the wheel of a truck and hauling agricultural products. I would respectfully ask for a DO PASS recommendation on HB 1349 as amended.

Representative Hogan: Are you saying that I could drive a sugar beet truck?

Representative John Wall: Yes, unless you have had more than two violations, if this bill passes.

Representative Hogan: I think that is very scary to think that we don't have regulations. I am going to be more careful when I drive around sugar beet trucks now.

Representative John Wall: This is not just dealing with sugar beet trucks. It is farm trucks hauling any commodity. It is not targeting the sugar beet industry.

Representative Delmore: Do you know what the cost would be to the employer to run the checks through the Department of Transportation?

Representative John Wall: Department of Transportation told me that running a check would be \$3.00 to \$5.00.

Representative Delmore: Can you tell me why you decided on a misdemeanor charge to be the punishment for violation?

Representative John Wall: Because it was suggested by Legislative Council and others that I talked to.

Chairman Ruby: I am trying to understand what the change does. Can you explain it again?

Representative John Wall: It is to try to make it clear that one could have one infraction under that section of code and still be able to drive. It was the feeling of Legislative Council that would clarify the language.

Chairman Ruby: Can't anyone get background or driving record checks without paying any money? So, do we need this bill?

Representative John Wall: Yes, I believe we do. They can check, but whatever they find; they can ignore. This is going to call for the Department of Transportation to set up the checklist to give information about the applicant. The employer has to check to see if the applicant has lied. If they have, they face a penalty. If the employer hires them, knowing that they don't qualify, then the employer faces a penalty. This calls for an outcome and a penalty.

Chairman Ruby: Is it often that the farmers have drivers that come back year after year?

Representative John Wall: I think that is what they desire. In my area of the state, I would guess that is what usually happens. If weather prohibits the harvest from taking place at the regular time, and people that take vacation to drive are unable to drive, then the farmers have a difficult time finding drivers.

Chairman Ruby: I think that this issue would be taken care of if the drivers were required to have a CDL license.

Representative John Wall: I didn't include that as a requirement. I think that would be good, but I don't think a lot of people in the agriculture industry would be able to get drivers. I did find my notes from Department of Transportation that said it would be a \$3.00 fee to get an abstract.

Representative Onstad: In this bill it talks about someone who is for hire. Would that exclude family members or volunteers, such as neighbors?

Representative John Wall: Family members are exempted in this bill. I have had people ask me why, because they may have had two violations. It was a subjective call. Many times I feel that relatives have a vested interest in the farm and are familiar with equipment. My constituents are concerned that someone at the last minute might hire "Rep. Hogan" and send her down the road with a 60,000 pound load.

Representative Onstad: Would it also exclude a neighbor who would volunteer for a week? If they are not for hire and not going to get paid, then would they be included?

Representative John Wall: I think they would be included in this language. There would have to be a check there also, but I had not thought of that possibility.

Senator Larry Luick, District 25, spoke and presented testimony in support of HB 1349. See attachment #3.

Chairman Ruby: By possible training are you talking about moving them towards CDL's?

Larry Luick: Not necessarily a CDL, but more training to learn how to handle the heavier trucks. Having a CDL does not make you a better or more cautious driver. I am not saying that this needs to be done immediately, but over a period of time.

Brenda Gjesdal, a Wahpeton resident, North Dakota resident spoke in favor of HB 1349 and provided written testimony. See attachment #4.

Chairman Ruby: Thank you for your testimony. We are sorry for your loss. If this woman had been driving a car, it could have been just as devastating, but I do know that trucks are a whole different animal. Had this woman worked for this farmer before?

Brenda Gjesdal: Yes, she had worked for him before. I don't know how many years.

Lee Nagel, a former teacher and coach at Wahpeton, North Dakota, spoke to support HB 1349.

Lee Nagel: I appreciate the opportunity to testify on what we call in Wahpeton, the Annie Gjesdal Bill, HB 1439. A little over a year ago, we lost an outstanding person in our community. She was a little closer to me, because she had been a student in my classroom for six years, and a member of my tennis team. She was an outstanding type child. Brenda, her mom, has done some things to help other people. Knowing Annie, in any type of adversity, she always wanted to know what she could do to make it better. This bill is very fitting. Annie lost her life, but in a small way this could make the environment safer. Nothing can bring back this child, but if this legislation is passed, it would take some pressure off the farmer too, once they know that the person that they have hired can do a good job driving. As far as the drivers, they are going to keep their records clean if they want to make some extra money driving. They will know ahead of time that they have to do a good job on the road. If you lived in our Red River Valley, the heart of our community is sugar beets during the harvest time of year. You wouldn't believe the traffic. When our families are out on the road, we want them to be in the safest environment possible. This bill will make it safer. He gave an example of a spot in the road south of Moorhead where there has been an accident every three or four years and some deaths. The people who are in power there have made a new stop sign situation with lights. Knowing that my wife likes to take that route to visit in Fargo, I have always been leery about that road. With that change, I know that Highway 75 is safer. I think that this bill is like that; it will make things a little safer. I hope you can get this important legislation passed.

Representative Delmore: Are you aware if the driver had a valid license at the time of this accident?

Lee Nagel: Yes, she did.

There was no further testimony in support of HB 1349.

Representative Wes Belter spoke in opposition to HB 1349. Since 1985 there have been numerous incidents of tragic accidents that have taken place due to negligence. He wants to remind the committee that we can pass many, many laws, but that doesn't stop people with numerous DUI's from continuing to drive. I wanted to share that with the committee so that we do not overreact to this tragic accident. My son studied the book, practiced driving a truck, went to Fargo, and took his CDL test. He did that all in one day. On our farm, we take a lot more time to train our drivers than he took that day. My insurance company requires us to list our primary drivers. If a person has a poor record, they will not insure that driver. I wanted to share these stories with you because I think that the farmers of North Dakota are trying their best to make the roads safe. I think they spend a lot of time training their drivers and working with them. Unfortunately there are some incidences, like the tragic one we heard of here. I would caution the committee to look at this in a very objective way and not in a way that you think that passing a law will prevent this from happening again.

Paul Mathiason, RRV Sugar Beet Growers, spoke in opposition to HB 1349. He provided written testimony. See attachment #5. He emphasized that the Red River Sugarbeet Growers are proactive about safety. Every board meeting before harvest, they talk about what they can do to make this beet harvest the safest one they can have. He thinks that there has to be an attitude developed among farmers that safety is important to them. They have to take that attitude and instill it into their drivers. He doesn't see this bill doing that. Maybe there is a way that this could be done. Paul gave examples of the training that he does as a beet farmer, and assured the committee that he does not put anybody behind the wheel of a truck without adequate training.

Representative Vigesaa: Following the accident that we heard about today, did you specifically address that to your growers?

Paul Mathiason: No

Representative Vigesaa: Why didn't you? With that tragic accident I would have thought that you would have communicated with your growers to be more cautious about hiring individuals to drive trucks.

Paul Mathison: We did talk about the next year. We discussed how we can be more proactive. We talked about making a check list, or asking the driver: Do you stop at stop signs? Do you speed? Do you text? And have him sign off on something like that, so that he understands that safety is important to us. We trust the state to say that if someone has a driver's license, especially with 3906, that the driver is OK.

Representative Heller: Does Minnesota have stricter policies than we do?

Paul Mathison: I would say no. I would suggest to you that any drivers that we reject from North Dakota go to Minnesota and drive. They have the same requirements for CDLs and exemptions as we do.

Representative Gruchalla: With a commercial driver's license the drivers are drivers are required by law to do random drug and alcohol testing. Under the farm exemption they are not required to do that. Is that correct?

Paul Mathison: I don't know that. I have never been told that I have to take a drug test, so I would say no.

Representative Gruchalla: Wouldn't it be beneficial for the farmers to have their drivers drug or alcohol tested? I would think that the insurance company would give you a better rate.

Paul Mathison: I don't know. I would say this. No farmer would put an impaired driver into a beet truck. A driver would not be able to do what they needed to do if they were impaired.

Representative Gruchalla: I would say that no farmer would do that knowingly, but not everyone can tell if someone is under the influence or on some sort of drug. I am just talking about a random drug test, like a CDL.

Paul Mathison: I wouldn't be in favor of it. I think it is unnecessary. I don't think that we could get enough drivers if we go to a CDL.

Chairman Ruby: From my standpoint as an employer and hiring truck drivers, just the idea of having a pre-employment drug screening will weed out a good portion of those right away. They won't want to take the test or won't apply. I don't think that it would hit that hard.

Representative Hogan: I am glad that there be might training, but does your organization have standards as to what that training would include, and do all farmers that hire beet truck drivers have that training. ?

Paul Mathison: I couldn't say. I can tell you that the first week of beet harvest you will see two people in many trucks. What they are doing is training their drivers. There are no standards.

Eric Asmundstad, a farmer from the Devils Lake area and also the president of North Dakota Farm Bureau which includes the largest domestic domicile insurance company in North Dakota, Nodak Mutual, spoke in opposition to HB 1349.

Eric Aasmundstad: I know a lot about this tragic accident. At the time that it happened we were in a Nodak Mutual board meeting.(inaudible) insured, but it was an employee of a Nodak Mutual agent. This was a tragic event that I do not believe that this law will do anything to help. It was an irresponsible act, by an irresponsible person, that was hired by an irresponsible employer. The person never should have been driving a truck or a car! We

have a problem with the bill. We don't think it should target agriculture. It is a transportation issue. If the driver would have been driving a car, the result could have been the same. This wasn't the cause of agriculture. This was an irresponsible person; her record shows that. There may be some misunderstanding over her license. We understood that she didn't have a license. We did what we had to do as an insurance company; we paid the claim. We insure stupidity, carelessness, and absolute dereliction in being a good citizen of the state. That is not right, but we do it, because that is what we do. There are provisions in this bill that we would like to amend, if it has to be passed. One is not to put the onus on the business owner, but on the person who wants to work. Make them come to the potential employer with a valid driver's license in hand and a MVR. If they want to work, they can have that responsibility. Make the owner of the business keep the MVRs on file. If they don't, make the penalties stiff enough so that they will darn sure do it next time or they won't even think about not doing it. We are for that. We cannot accept the bill as it stands. It just puts additional cost on business. As far as the insurance part of it, if we have insured out there that aren't going to live up to their responsibilities as good citizens, then maybe their own personal assets should be put at risk in gross negligence like this. Then the insurance company's limits should be reduced to the minimums. That is what we would propose. If my personal assets are at risk, I am not going to take a chance. Nodak Mutual paid that claim, but every person that is a policy holder of the company paid that claim, as they should. But, we don't need to *keep* paying it. There was no reason that this accident happened, other than irresponsibility. We would respectfully request that you give this bill as it stands a DO NOT PASS recommendation.

Dan Wogsland, Executive Director of the North Dakota Grain Growers Association, spoke in opposition to HB 1349.

Dan Wogsland: We would like to say we are very, very sorry for the accident that brought this bill about. This is something that agriculture as an industry does not like to see and tries to avoid all possible costs. I believe that Mr. Aasmundstad came up with some good ideas to add to this bill. I think that putting some of the onus on the employees is a good idea. I would also agree with Rep. Belter in as much as we take an objective view to the bill. We cannot support the bill as it is now.

Scott Rising, Soybean Growers Association of North Dakota, spoke in opposition of HB 1349 in its present form. He does not believe that it addresses public safety and that the bill will not accomplish what is intended.

Scott Rising: We are supportive of the idea of addressing additional safety issues on our roads, including agriculture. The provisions in the bill exempt the vast majority of people where we first go to find our drivers. We believe that family member, people that we know and trust are the folks that we would prefer to have driving for us. We spend time and energy to make sure that they have those capabilities. Occasionally we have to go beyond that group, and we rely on that group for input as to who we do hire. The introduction of this bill has accomplished something from the standpoint that the issue is here in front of this legislative body. There is recognition, certainly among the soybean grower community, that we have to find a way as times change to address things that may not have been anticipated. I believe that there has been an undertow for this for awhile. I also sense a

change in our community to be willing to work with those that want to address this issue in some meaningful way. Unfortunately, I don't believe this bill takes us there. Should the committee choose to amend or turn this into a study on how best to do that across the state, we would be happy to participate in that. We encourage you to look at those options. There has been some success from this tragedy to address this issue and bring it to the consciousness To do something I believe is important, but just to do "**something**" would not be appropriate. The idea is to advance public safety. The idea of getting the worst of the worst out of the mix is something that we support.

Chairman Ruby: It will be difficult for us not to have this focused on Ag. related trucking when Ag. is one of the few that is exempt most of the other areas. There is pre-employment drug screening, random drug screening, CDL license, medical cards, and ... My guys just drive garbage trucks, and they have to have all of that. Anything that we would do that is going to help address this issue, it would be hard not to have the focus Ag. related. That is the only profession that you are turning people loose with a class D license behind the wheel of a semi. Am I correct?

Scott Rising: I don't know that for sure. I will accept your word. My point is basically this: Where we have been resistant, I sense a great deal less resistance to addressing the issue.

Tom Lilja, Executive Director of North Dakota Corn Growers Association, spoke in opposition to HB 1349.

Tom Lilja presented an e-mail summary written by the director of their public policy, Mike Clemens (a Wimbledon, North Dakota Ag. producer). It reads: It was brought to my attention that HB 1349 (skipped words) ... agricultural products, driver with Class D license. Current law in the commercial drivers license guide under the Class D section has exemptions that #1) allows minors to drive farm motor vehicles within 150 mile radius of the farm not to exceed 50,000 pounds, #2) any two axle trailer, tandem axle, or truck trailer farm vehicle controlled by a farm or transporting Ag. products, machinery, or farm supplies to or from the farm within a 150 mile radius. Also semi-trailers except for doubles, triple trailers, or for those under the age of 18, #3) Farmers may transport materials within a 150 mile radius without an endorsement on the license. This current law with the restrictions of under 18 years of age for a tractor and trailer and the 150 mile radius is very sufficient for Ag. producers to operate their farm safely and efficiently. Many producers do provide on the farm training for their families and employees that operate vehicles in the class D category. I don't know the statistics on the problem, but my personal assessment, in our area of the state, it has to be very low. I believe that the bill would put undue and unnecessary burden on the agricultural producers in this state.

Tom Lilja: Overall the Corn Growers feel that there is some redundancy in this bill. We are very sorry for what happened. We would be open to any interim studies or amendments that would improve safety in any type of form, whether it is training of employees or things like that that our groups can do. One of the biggest complaints that I hear is about the labor pool. It is tougher and tougher to get labor. That is no excuse to sacrifice safety, that is not what we are saying, but it is a challenge for farm families. In current form as it is written, the Corn Growers would stand opposed to HB 1349.

Representative Delmore: About how many drivers would a typical farmer hire during a harvest season?

Tom Lilja: It is extremely varied, depending on the size of the farm.

There was no further testimony in opposition to HB 1349.

Glenn Jackson, Director of the Driver's License Division at the North Dakota Department of Transportation, spoke in a neutral capacity on HB 1349. See attachment #6.

Chairman Ruby: The Department of Transportation is neutral on this bill? Could you administer this if it passed?

Glenn Jackson: Yes, that is correct.

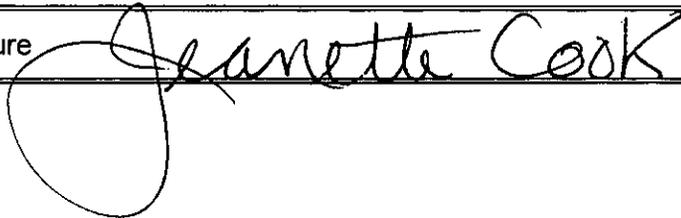
The hearing on HB 1349 was closed.

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

HB 1349
02/11/2011
Job # 14427

Conference Committee

Committee Clerk Signature 

Minutes:

Attachment #1

Chairman Ruby brought HB 1349 before the committee. He explained the amendments from Rep. Wall, 11.0074.01003. He thinks it is important to put them on, even if it doesn't change the other aspects of the bill.

Representative Owens moved the amendments.
Representative Hogan seconded the motion.
A voice vote was taken and the motion carried.

Chairman Ruby: The bill would still require the employer to get the signature and to obtain the driving record from the Department of Transportation. I don't know if there was any discussion about the Department of Transportation having something online to get something they could print off, like a standard form?

Glenn Jackson: We do have the ability online today. They can go online, and put the information in for the potential employee. They put their own information in, and they can see the last three years of the driving record with any item on the record that is three points or higher. They pay a \$3.00 fee to download that information and print it from where they are.

Chairman Ruby: You can also look at District Court for criminal records. It is easy to do. It is possible to get driving records through Department of Transportation.

Representative Gruchalla: How many states are in the compact agreement?

Glenn Jackson: All of the states are in the agreement at this time.

Representative Frantsvog: Can a perspective employer go online and look at my driving record?

Glenn Jackson: That is correct, and when they do look, a letter to you is automatically generated from the system that tells you who requested that information.

Representative Frantsvog: You wouldn't need anything from the Department of Transportation in writing that says a record is clear, would you? All you would have to do is look, is that correct?

Glenn Jackson: I believe that is correct, but this does require the creation of a form for them to process that information.

Chairman Ruby: Usually the people who check the records are the insurance companies. I know that my insurance company asks for a list of my drivers every year.

Glenn Jackson: We have agreements with insurance clearing houses, so that changes to the driving status are automatically updated. The ones who check these records the most are employers.

Representative Delmore: Will this require more work for the employers, such as the beet farmers, etc.?

Glenn Jackson: It will require them to process this form, mail this form to us with the check, we will have to take time to process the request, and then mail it back to them. It will generate more work for our staff; I'm not sure how much time that will be. If they use the online action, it would generate no work for us at all.

Representative Delmore: Will the person be unable to drive until they get the clearance?

Glenn Jackson: I don't know, but I would assume from reading the bill that they would need the assurance before they hire the person to work.

Chairman Ruby: The fiscal note shows no effect. Will it cost you money to develop the form and put it online?

Glenn Jackson: No, it won't.

Chairman Ruby: We heard from both sides why they want the bill, and the reasons for opposing it. I could see that employers would want to gather some of this information for their own reasons before they put someone behind the wheel of a truck. They may want to do it for insurance reasons, or this bill would require them to get the record and keep it on file.

Representative Heller moved a **DO NOT PASS** as amended on HB 1349.

Representative Weisz seconded the motion.

Representative Onstad: I think the bill was brought to us because of a safety concern. So, how does this address that safety concern?

Chairman Ruby: I would say, in that instance, it would have prevented that individual driver from being behind the wheel.

Representative Onstad: So, if an accident didn't occur, and the person had an infraction a few years earlier, then they would go back to the farmer, for example, and he would have to show the documents that he had done a check? Is that what we are asking here?

Chairman Ruby: Correct, the farmer would have to maintain the records.

A voice vote was taken. Aye 9 Nay 5 Absent 0

The motion carried.

Representative Louser will carry HB 1349.

FISCAL NOTE

Requested by Legislative Council
01/19/2011

Bill/Resolution No.: HB 1349

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 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.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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).*

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 has no material 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:	Shannon L. Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	01/19/2011

January 31, 2011

Vrc
2/11/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1349

Page 1, replace lines 8 through 17 with:

"1. Notwithstanding any other provision of law, a driver with a class D license who for hire operates a truck or truck-tractor to transport agricultural products shall sign, before being hired, a form in which the driver certifies that the driver:

a. Is at least eighteen years of age; and

b. Excluding an action or pending action for one violation of section 39-08-01, or equivalent ordinance, within three years from the time of arrest:

(1) Has not had a revocation, suspension, or cancellation of driving privileges within the last three years;

(2) Does not have a pending action that will result in a revocation, suspension, or cancellation of driving privileges;

(3) Has not had a drug-related offense within the last three years; and

(4) Does not have a pending action the subject of which is a drug-related offense."

Renumber accordingly

Date: 2/11/11

Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1349

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 Owens Seconded By Hogan

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby			Representative Delmore		
Vice Chairman Weiler			Representative Gruchalla		
Representative Frantsvog			Representative Hogan		
Representative Heller			Representative Onstad		
Representative R. Kelsch	<i>Vote Not Passed</i>				
Representative Louser					
Representative Owens					
Representative Sukut					
Representative Vigasaa					
Representative Weisz					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Amend.
003*

Date: 2/11/11

Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1349

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 Heller Seconded By Weisz

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby	X		Representative Delmore	X	
Vice Chairman Weiler	X		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 Vigesaa		X			
Representative Weisz	X				

Total (Yes) 9 No 5

Absent 0

Floor Assignment Louser

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

REPORT OF STANDING COMMITTEE

HB 1349: Transportation Committee (Rep. Ruby, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1349 was placed on the Sixth order on the calendar.

Page 1, replace lines 8 through 17 with:

"1. Notwithstanding any other provision of law, a driver with a class D license who for hire operates a truck or truck-tractor to transport agricultural products shall sign, before being hired, a form in which the driver certifies that the driver:

a. Is at least eighteen years of age; and

b. Excluding an action or pending action for one violation of section 39-08-01, or equivalent ordinance, within three years from the time of arrest:

(1) Has not had a revocation, suspension, or cancellation of driving privileges within the last three years;

(2) Does not have a pending action that will result in a revocation, suspension, or cancellation of driving privileges;

(3) Has not had a drug-related offense within the last three years; and

(4) Does not have a pending action the subject of which is a drug-related offense."

Renumber accordingly

2011 TESTIMONY

HB 1349

NORTH DAKOTA HOUSE OF REPRESENTATIVES

#1



STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Testimony of Representative John Wall
House Bill No. 1349
Transportation Committee – Rep. Dan Ruby/Chairman
Fort Totten Room
January 27, 2011

Good afternoon Chairman Ruby and Members of the House Transportation Committee.

For the record, I am Representative John Wall of District 25, which encompasses the Eastern one half of Richland County in Southeastern North Dakota and includes the city of Wahpeton.

I am here today to introduce and offer my support to HB 1349. This bill is brought forward on behalf of constituents and as a result of a tragic fatality which occurred in Richland County.

The purpose of the bill is to make our highways safer.

Currently, to haul agricultural products within a 150 mile radius of the farm where the crop is grown, all that is needed is a valid driver's license and the potential driver needs to be 18 years of age, or 16 years of age if the driver has a Commercial Drivers License (CDL). There is no requirement for training, no required comprehensive background checks, and no requirement for a CDL. If the proposed legislation is enacted this would not change. What would change is that all prospective drivers would have to fill out a short form developed by the Department of Transportation which would indicate past violations or pending actions which might culminate in the loss of driving privileges. Also, the person who hires the potential driver shall obtain the driving record abstract of the driver from the Department of Transportation and verify that the information provided by the driver is correct.

Seeking a potential employee's driving record can be done now and the only significant difference is that HB 1349 would require it be done and provides a penalty if a potential driver does not tell the truth on the form or if an employer knowingly hires someone who is not qualified.

House Bill 1349 proposes a small change in current law, but I believe it may keep our highways safer for everyone. This concludes my testimony and I would respectfully ask for a DO Pass recommendation on HB 1349. At this time I will try to answer any questions you might have.

11.0074.01001
Title.

Prepared by the Legislative Council staff for
Representative Wall

January 26, 2011

#2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1349

Page 1, line 11, remove "has not had more than one violation of section 39-08-01, or equivalent"

Page 1, remove line 12

Page 1, line 13, remove "that section;"

Page 1, line 15, after "privileges" insert ", excluding an action or pending action for one violation of section 39-08-01, or equivalent ordinance, within three years from the time of arrest"

Renumber accordingly

HB 1349 Testimony

Senator Larry Luick

January 27, 2011

Mr. Chairman and Transportation Committee Members, for the record my name is Larry Luick, Senator from District 25.

Growing up on a farm and being involved with a business that moved a tremendous amount of materials over-the-road, I was put in a position where I was being asked to drive semi trucks at a young age. It was both exciting and challenging. During this time frame it was very acceptable for this to happen. With the changing of times, road speeds, equipment, distractions (like texting), and just the number of vehicles on the road, I could not say that I would put my children into the position I was placed in, without more training.

I believe we need to extend the need in the future of making certain that the people that are operating these heavier trucks be trained for the proper operation of that class of vehicle.

Immediate action (by that I mean 1-2 years) may not be possible, but maybe within ²⁻⁵~~five~~ years, the operators of this class of vehicle would need to have some sort of training in order to operate these vehicles legally and proficiently.

Mr. Chairman and Committee, I ask for your consideration of all the testimony that promotes safety on this appeal and vote in favor of HB 1349.

Good Afternoon Chairman Ruby and Members of the Transportation Committee:

My name is Brenda Gjesdal. I am a resident of Wahpeton, ND, which is in District 25.

My reason for being here is to discuss House Bill 1349 and why it needs to be passed.

On September 29, 2009, around 1:30 p.m., my daughter, Antoinette Gjesdal, was on her way to Wal-Mart. Annie was stopped at the traffic light at the 210 Bypass. She began to go through the green light when she was hit by a sugar beet truck that ran the red light and crashed into Annie's driver's door. Annie was the third vehicle to go on the green light. Annie died at the scene from a broken neck. Annie was 18 and had just graduated with honors from high school on her birthday in May. She was enrolled at the North Dakota State College of Science in the nursing program. She was loving every minute of college life. Annie was my only child.

During one of the numerous news clips I saw on local television stations regarding the crash that took Annie's life, I discovered that the driver of the semi-truck (Cathleen Cantrell Dean) had a very extensive criminal record. She had been charged five times for Driving while her License was Suspended from 1999 to 2007. She also had three charges for Possession of Drug Paraphernalia and Possession of a Controlled Substance along with a charge of Hindering Law Enforcement. The last drug offense occurred in 2007, just two years before the crash.

Once this came to light, my family and I were outraged that someone with a record like that would be allowed to get behind the wheel of a semi truck. There apparently had not been any background check done on her or it was ignored and she was hired anyway. Every year we hear how difficult it is for the farmers to find drivers for the beet season. We cannot have them hiring any "warm body" they find to put behind the wheel of these rigs. A car does not win in a crash with a semi-truck.

The public needs to know that these big trucks are being driven safely and by competent individuals who, at the very least, have demonstrated good judgment by having a clean traffic and criminal record. We need to know that the farmers have done their homework before they hire any old drivers off the street.

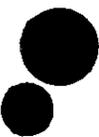
It is also apparent that without any regulations that the farmers have to follow, many will continue to hire any driver they can find without having to worry about whether that driver is capable of exercising the care and judgment to drive safely and with due regard to the rest of us. Farmer employers need to do background checks and hire competent drivers. This bill will help by forcing employers to take what I think are the minimum steps to scrutinize the safety record of potential drivers. We cannot risk another child's life by thinking farmers will do this on their own.

Cathleen Dean has pleaded guilty to Negligent Homicide in the crash that killed Annie. She was sentenced to a year at the Women's Correctional Center in New England, ND. In January 2011, she was up for parole but it was denied. She will be released in July of 2011.

I know that my being here will not bring my beloved Annie back, but I could not live with myself if I had not done everything in my power to ensure this type of crash does not affect another family. Truck driving safety is a serious issue and House Bill #1349 is a step in the right direction.

Thank you.

Melinda E. Gjesdal



To Chairman Ruby and Members of the Transportation Committee

I am here to speak in opposition to HB 1349. We understand this bill as a bill for safety so I first want to say that the sugarbeet growers are all for safety. We ask all our growers to put mud scrapers on their trucks to keep mud chunks off the roads. In addition most growers have purchased box scrapers to take mud off roads. We put up our own "slippery mud on road" signs. We have held training seminars at piling sites to help our new drivers. At my piling site at Reynolds the growers, at their own expense, have laid down a dust retardant on a busy gravel road we share with school buses. We have gone into schools on a public awareness campaign to remind students that the roads will be busier during harvest and sponsor radio ads with the same message.



The effectiveness of these efforts are hard to measure but the safety record for crashes and fatalities involving trucks is on par with general public. This statement is supported by information from NDDOT web site. I have not been able to find specific information on just farm trucks but being there is 600 million ton miles of ag products moved every year (Great Plains Transportation) we are comfortable in saying our safety record would be comparable.

So couple our record with the fact section 39-06-3 of the Century Code already addresses license revocation for repeat offenders of Section 39-08-01 by granting revocation of license for "habitual drunkards" that have three offenses in five years we see no need for this separate criteria for farmers. We think if the state issues a license, farmers should be able to honor that determination.

Thank you

Paul Mathiason

Red River Valley Sugarbeet Growers



#6

**HOUSE TRANSPORTATION COMMITTEE
January 27, 2011 - 2:00 p.m. - Fort Totten Room**

**North Dakota Department of Transportation
Glenn Jackson, Director, Drivers License Division**

HB 1349

Mr. Chairman and members of the committee, I'm Glenn Jackson, Director of the Drivers License Division at the North Dakota Department of Transportation. Thank you for giving me the opportunity to present information to you today.

House Bill 1349 provides for a process in which potential employers may review the driving record of potential employees.

Currently, a prospective employer can gain access to an individual's last three year driving record, which shows major violations that are defined as 3 point or higher offenses, if they have the individual's full name, date of birth and driver's license number. This can be accomplished online in a matter of minutes. Once the employer requests the information and pays the \$3.00 fee via credit card, the record appears in a printable format for review or printing. Simultaneously, a letter is generated by our system to the individual whose record was accessed, informing them of who accessed their record and when it occurred.

The process defined in this bill is based on a form that would be created. This would require the prospective employee and employer to fill this out, include a check for \$3.00, mail it to us, have us process it and mail the results back. This process could take 7 – 10 business days, depending on work volume.

This bill, however does establishes a penalty for either providing false information or hiring a driver knowing they are not qualified, something that currently is not in law.

Thank you, Mr. Chairman, I would be happy to answer any questions.