

2013 HOUSE TRANSPORTATION

HB 1123

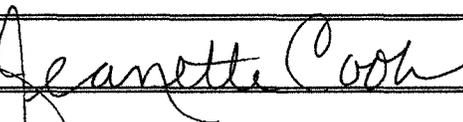
2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee Fort Totten Room, State Capitol

HB 1123
01/17/13
Job # 17344

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to immediate notification of an accident.

Minutes:

Attachment s 1-2

Chairman Ruby opened the hearing on HB 1123.

James Prochniak, North Dakota Highway Patrol, testified in support of HB 1123 and provided written testimony and a handout entitled "Animal/Vehicle Crash Analysis". See attachments #1 and 2. (4:48)

Representative Delmore: I can really see the benefit in this. Who is responsible if the animal is in the road? Since it doesn't have to be reported, is there an assurance that someone will try to clear the deer away, so there isn't another accident?

James Prochniak: The Highway Patrol receives regular calls about animal carcasses causing traffic hazards. We simply pull them off to the shoulder. Department of Transportation also makes the regular run routes every morning checking for animal carcasses and removing them. That process would continue. We will also educate the public that if a carcass is not removed and presenting a hazard, to contact law enforcement or the Department of Transportation.

Representative Delmore: Are we just trying to make it more convenient for the person involved in an accident, when the vehicle is drivable, to leave the scene of the accident? Then does the person have to notify the Highway Patrol at a later time?

James Prochniak: We are proposing that the person in the accident would no longer have to notify the Highway Patrol. We do see that it would make it easier for the person in the accident. Many times the vehicle is drivable, and the person had to wait an hour for the Highway Patrol to get there. This was done for the officer to collect statistics and do paperwork that is not collected or needed. It is inconvenient for the person waiting, and law enforcement could use the resources for enforcement purposes.

Representative Delmore: Are insurance companies in agreement with this?

James Prochniak: Yes, they do agree with it.

Chairman Ruby: Is it widely known by city people, that cattle and horses are considered domesticated animals? What information will there be for people if they hit someone's livestock? Will they know they have to call it in or think they don't have to?

James Prochniak: Those same examples occur today. Sometimes people call, and sometimes they don't. I don't see a lot changing. We propose that there will be a teaching campaign through media venues that will let people know what to do.

Representative Weisz: We tried to do this before, but it was not supported by insurance companies. I think is a good idea, and hope it passes.

James Prochniak pointed out the different groups they met with when they drafted this bill, including insurance companies. He included: Game and Fish, Department of Transportation, American Automobile Association, North Dakota Insurance Department, and the Highway Patrol.

Chairman Ruby: It does look like some of the states around us have dollar limits. Does this bill say no matter what the amount of damage is?

James Prochniak: That is correct.

Chairman Ruby: Most people don't even know what \$1000 of damage is.

Representative Becker: Do you know when the \$1000 mark was placed into law?

James Prochniak: The thousand dollar threshold has been there for a long time. I'm not sure. I've been in law enforcement for twenty-six years, and it was there when I started.

Representative Becker: Is it possible to look at that number as part of the overall bill. If the intent is to make things easier for both parties, a thousand dollars is really just a little bumper crunch. It is almost impossible to get into any kind of accident under \$1000, just like we have to bump up fines and salaries over time because of cost increase. This \$1000 is needlessly taking up law enforcement time.

Chairman Ruby: Would that be something that you would support, Colonel?

James Prochniak: It has been felt for years that the \$1000 threshold is too low. However, at this point we are concentrating on the car/deer portion. We would support that change.

Representative Delmore: On the \$1000 reportable, how often do you collect a fine on that?

James Prochniak: We use officer discretion. When someone is trying to report it, after going to a garage and finding out the dollar amount of the damage, we use some leeway. If it is obvious that the damage is high, and it has not been reported, then we give a citation.

Representative Vigesaa: If the law passes as it is before us, and you continue to get calls from citizens. Will you respond to those calls or will you tell them that they didn't need to report it, and they can continue on their way?

James Prochniak: We have to respond until people know the new law, are educated, and comfortable with the new law.

Chairman Ruby: If a person calls and needs to get somewhere, will you just tell them that they can continue on?

James Prochniak: That is correct.

Steve Becher, Executive Director of Professional Insurance Agents of North Dakota: We represent about 300 independent agencies around the state which have about 1500 agents. As an industry and as agents we do support this bill. In answer to a question the chairman asked about the requirements under insurance to report these accidents, there is no requirement what-so-ever. A deer hit is a comprehensive claim. It doesn't need to be reported to the police.

Chairman Ruby: Is there any issue with the possibility of raising the threshold up from \$1000 for at fault accidents?

Steve Becher: I don't think so. I agree that no one knows what \$1000 worth of damage is anymore. I don't believe that you would want to muddy this bill with a second issue.

There was no further support for HB 1023.
There was no opposition for HB 1023.

Chairman Ruby closed the hearing on HB 1023.

Representative Gruchella: I think we should just leave it the way it is.

Representative Delmore: We have people confused with what a \$1000 of damage looks like. Image the confusion with \$5000 of damage.

Chairman Ruby: That issue should probably get its own hearing.

Representative Kreun moved a DO PASS on HB 1023.
Representative Gruchella seconded the motion.

A roll call vote was taken. Aye 13 Nay 0 Absent 1
HB 1023 passed. Representative Oversen will carry the bill.

Date: 1-17-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1123

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 Kreun Seconded By Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	✓		Rep. Lois Delmore	✓	
Vice Chairman Mark Owens	✓		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker	✓		Rep. Kylie Oversen	✓	
Rep. David Drovdal	✓				
Rep. Robert Frantsvog					
Rep. Brenda Heller	✓				
Rep. Curtiss Kreun	✓				
Rep. Mike Schatz	✓				
Rep. Gary Sukut	✓				
Rep. Don Vigasaa	✓				
Rep. Robin Weisz	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Oversen

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

REPORT OF STANDING COMMITTEE

HB 1123: Transportation Committee (Rep. Ruby, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1123 was placed on the
Eleventh order on the calendar.

2013 SENATE TRANSPORTATION

HB 1123

2013 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

HB 1123

2/22/13

Recording job number 19386

Conference Committee

Committee Clerk Signature

Doris E Pérez

Explanation or reason for introduction of bill/resolution:

To amend and reenact section 39-08-09 of the North Dakota Century Code, relating to immediate notification of an accident.

Minutes:

Attached testimony: 1

Chairman Oehlke Opened the hearing on HB 1123

James Prochniak, Superintendent of North Dakota Highway Patrol in support of this bill which would eliminate the need for a driver to notify law enforcement when involved in a crash with an undomesticated animal resulting in property damage only. All crashes involving an injury to an occupant would still be reported to law enforcement. Distributed written testimony # 1, which includes: animal/vehicle crash analysis, an informational sheet addressing some of the questions associated with this proposed bill.

Senator Flakoll I am worried about the so-called pseudo-domesticated animals like the horses in the Theodore Roosevelt Park, are they domesticated or non-domesticated?

James Prochniak We look for guidance from the Attorney General's office. The best way I can answer this is: we were trying to eliminate anything that would have an interest from an ag standpoint, from a personal pet (dog, cat) that may have a value to that individual or to that business so that was the word that was chosen. I might be offering an opinion here, on a similar circumstance the elk that are located at the Badlands they are wild animals which would fall under this clause. If there is value to that animal we would need a report i.e. an elk from an elk ranch. The handout indicates the citizen educational campaign

Senator Axness When I look at the number of people that actually report to law enforcement is less than half of what the insurance got.

James Prochniak We have learned from the insurance industry and thru the process of covering this for years that it is a comprehensive claim, like a hailstorm. You don't necessarily need a police report for that and that is why several folks don't even bother.

Senator Flakoll will this work well with on-star?

James Prochniak Yes it would. When we receive on-star information we get it from a live person, so we can ask some of those questions.

Vice Chairman Armstrong Any concern about leaving them on the middle of the road

James Prochniak We continually get calls to remove them, and we do. North Dakota Department of Transportation (DOT) when they are able, they send someone to remove them.

Steve Becher, Executive Director, Professional Insurance Agents of North Dakota We as an industry support this bill. Insurance industry does not need these police reports, it does not affect whether the claim is covered or not

Larry Syverson, Mayville, North Dakota In support of this bill. Duck caused damage to his car's grill, did not set on on-star, did no police report, did not have any problems with the insurance agency.

No additional testimony. Hearing closed

Senator Sinner Moved DO PASS

Senator Campbell seconded

No additional discussion

Roll call vote: Yes 7 No 0 Absent 0

Carrier: Senator Flakoll

REPORT OF STANDING COMMITTEE

HB 1123: Transportation Committee (Sen. Oehlke, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1123 was placed on the
Fourteenth order on the calendar.

2013 TESTIMONY

HB 1123

**Testimony – House Bill 1123
House Transportation Committee
Submitted by
James Prochniak, NDHP**

January 17, 2013

Good morning, Mr. Chairman, and members of the House Transportation Committee. My name is James Prochniak, Superintendent of the North Dakota Highway Patrol. I am here today to testify in support of House Bill 1123.

The North Dakota Highway Patrol and other law enforcement agencies across the state investigate a large number of animal/vehicle crashes. Throughout 2011, there were 2,887 animal/vehicle crashes reported to law enforcement. Under current law, the driver of a vehicle involved in an accident resulting in property damage of at least one thousand dollars shall immediately give notice to law enforcement. This includes animal/vehicle crashes.

A typical animal/vehicle crash involves a law enforcement officer responding to the scene of the crash to complete the report. Responding to the scene and completing the crash paperwork takes an average of one hour for an animal/vehicle crash. Often times, the vehicle has sustained minor damage and is able to be driven from the scene.

The North Dakota Highway Patrol is proposing an exception to NDCC 39-08-09 which would eliminate the need for a driver to notify law enforcement when involved in a crash with an undomesticated animal resulting in property damage only. This would allow the driver to proceed to their home if the vehicle is drivable. All crashes involving an injury to an occupant would still be reported to law enforcement. Law enforcement would also respond to the scene when requested to provide assistance or when the vehicle has been disabled.

Several local and state agencies have provided input regarding the process of reporting animal/vehicle crashes. Input has also been obtained from several representatives of the insurance industry. All agencies affected are in support of this bill. Follow-up correspondence with the insurance industry revealed there are as many as 6,000 animal/vehicle crashes in North Dakota on an average year. It is apparent these crashes are grossly underreported, and the insurance industry believes that an exception to animal/vehicle crash reporting would be appropriate.

There are several advantages to eliminating the need to report animal/vehicle crashes including increased staffing efficiencies, redirected patrol efforts, and time saved for law enforcement and the public. The proposed change will not only benefit all law enforcement but also the motoring public by eliminating redundant paperwork.

Mr. Chairman, members of the committee, this concludes my testimony. I would be happy to answer any questions you may have.

ANIMAL/VEHICLE CRASH ANALYSIS



January 11, 2013

The North Dakota Highway Patrol investigates a large number of animal/vehicle crashes. From January to October 31, 2012, the Highway Patrol has covered 659 animal/vehicle crashes. Under current law, the driver of a vehicle involved in an accident resulting in property damage of at least one thousand dollars shall immediately give notice to law enforcement. This includes animal/vehicle crashes.

A typical animal/vehicle crash involves a law enforcement officer responding to the scene of the crash to complete the report. Responding to the scene and completing the crash paperwork takes an average of one hour for an animal/vehicle crash. Often times, the vehicle has sustained minor damage and is able to be driven from the scene.

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Numerous phone calls and emails have been exchanged regarding the process of reporting animal/vehicle crashes. Input has been received from several agencies and all information will be taken into consideration.

- Robert Timian with North Dakota Game and Fish reported that their wildlife division does use the animal/vehicle crash statistics as one of the tools in estimating the deer population. Although this information is used, it is not critical to their operations. North Dakota Game and Fish is in support of eliminating the need to report animal/vehicle crashes.
- The North Dakota Department of Transportation provided a large amount of input. Conversations with Mark Nelson, Lynn Heinert, and Shawn Kuntz all revealed that the DOT would support the elimination of animal/vehicle reporting. They stated the statistics provided from these crashes were not used by their department and serve no purpose.

- The American Automobile Association (AAA) was asked about their stance on the issue of eliminating the need to report a car/deer crash. Eugene Ladoucer from the Fargo AAA office reported that they would not have any objections to changing the system. They felt a self-reporting mechanism would be best as they anticipated a need for this information coming from the insurance industry.
- A meeting was scheduled with the insurance industry to obtain their input. Kent Olson, Patrick Ward, and Steve Becker were in attendance on behalf of the insurance industry. All of them felt the elimination of animal/vehicle reporting would be beneficial and they did not see any issues on behalf of the insurance industry. Follow-up correspondence with Patrick Ward revealed that there are as many as 6,000 animal/vehicle crashes in North Dakota on an average year. This does not include commercial vehicles. It is apparent that these crashes are grossly underreported, as law enforcement reported only 2,887 animal/vehicle crashes in 2011.
- Rebecca Ternes with the North Dakota Insurance Department was informed of our intent. Further correspondence revealed that the ND Insurance Department would remain neutral.
- Input was also sought from all North Dakota Highway Patrol regional commanders and administrative assistants. There were only two regional offices reporting any follow-up requests for animal/vehicle reports from insurance agencies.

The chart below highlights the advantages and disadvantages with eliminating the need to report an animal/vehicle crash.

Advantages
Staffing efficiencies
Redirected efforts
Time saved for both the NDHP and the public
Cost reduction
Disadvantages
Animal/vehicle stats unavailable to law enforcement

Attached is the breakdown of the animal/vehicle crash analysis of the current and previous years. In 2009, the NDHP covered 1,456 animal/vehicle crashes which accounted for 36% of the 4,033 total crashes. Since then, the number of animal/vehicle crashes has decreased. As of October 31, 2012, the NDHP covered 659 animal/vehicle crashes and is projected to cover a total of 791 by the end of the year. The projected cost in salary to cover these crashes is over \$30,000. The 2012 data is a projected number that was computed using the 2012 year-to-date data.

Also attached is a chart that shows a breakdown of the crashes in each region that have been reported from January through October 31, 2012. As in years past, the highest number of animal/vehicle crashes occurred in the Northeast Region of the state. The Northeast Region accounts for 31% of the animal/vehicle crashes.

ATTACHMENT 1

The surrounding states were contacted regarding their policy of animal/vehicle crashes. Below are the policies for Minnesota, Montana, and South Dakota.

Minnesota
All crashes over \$1000 are reported to law enforcement Reporting party also fills out a citizen crash report that is obtained online A typical one vehicle car/deer crash simply requires a citizen crash report and nothing on behalf of the law enforcement agency
Montana
All crashes over \$500 requires notification to a law enforcement agency All crashes over \$1000 requires a state crash report to be submitted Officers typically complete a state crash report for car/deer crashes (same form as a two-vehicle property crash)
South Dakota
All crashes over \$1000 are reported to law enforcement Laws are consistent with North Dakota

ATTACHMENT 2

Highway Patrol Covered Crashes			
	Animal	Total	% of Total Crashes
Year End Est. 2012	791	2994	26.4%
2011	1037	3861	26.9%
2010	1146	3813	30.1%
2009	1456	4033	36.1%

*Total crashes includes : Property, Injury, Fatal, Non-reportable, Animal/Vehicle, and Commercial Motor Vehicle

***Average time to process an animal/vehicle crash report is 1 hour**

Cost to Cover Animal/Vehicle Crashes			
	Animal Crashes	*Avg Salary/hr.	Total Cost
Year End Est. 2012	791	\$38.28	\$30,279.48
2011	1037	\$35.95	\$37,280.15
2010	1146	\$35.15	\$40,281.90
2009	1456	\$32.53	\$47,363.68

*Average hourly salary provided by NDHP finance (Figures represent salary and benefits)

Year to Date Regional Breakdown for 2012		
Region	Animal Crashes	% of Total Crashes
NW	131	19.9%
NE	207	31.4%
SW	158	24.0%
SE	153	23.2%
MC	10	1.5%

Questions

1. How will law enforcement provide assistance if a vehicle striking an animal is disabled?
-Law enforcement will continue to respond to any vehicle that is disabled. If a vehicle strikes a deer and is unable to be driven from the scene, law enforcement will respond and provide assistance to ensure the motoring public reaches their destination safely.
2. How will law enforcement respond if other property is damaged?
-Damage to other property would require a report to law enforcement. For example, if a vehicle strikes a deer, continues off the roadway and damages a mailbox, the driver is required to make a report to law enforcement. The proposed change in statute only exempts law enforcement notification when one vehicle strikes an undomesticated animal that results in damage to the striking vehicle only.
3. How will the insurance industry be affected by eliminating the need to report animal/vehicle crashes to law enforcement?
-The insurance industry is not concerned with this proposed change. They will not feel an impact and will be able to proceed with processing their claims without an animal/vehicle crash report from law enforcement.
4. How do we plan to inform the motoring public of this change?
-The North Dakota Highway Patrol plans to launch a media campaign using television, radio, and print highlighting the new law and how it works. State Radio and local dispatch centers will be given informational sheets on how to proceed with calls from citizens involved in animal/vehicle collisions. There will also be a legislative law review providing clarification to all North Dakota law enforcement officers.
5. How will repair shops handle vehicles that are not displaying DVR stickers?
-Law enforcement officers place Damaged Vehicle Release (DVR) stickers to vehicles involved in a reportable crash. The intent of these stickers is to notify garages and repair shops that the vehicle crash has been reported to law enforcement. The stickers will not be placed on vehicles involved in animal/vehicle crashes since they will not be required to be reported to law enforcement. A repair shop owner would not be required to notify

law enforcement of vehicles failing to display a DVR sticker that were involved in an animal/vehicle crash. North Dakota Century Code 39-07-12 states, "...The police officer investigating any reportable accident shall attach a sticker to the window of any damaged vehicle showing that the accident in which such vehicle was involved has been investigated. If the vehicle does bear such a sticker, the garage or repair shop need not make the report this section requires and may begin repairs immediately..." The proposed legislation would make animal/vehicle crashes non-reportable, thus a DVR sticker would not be attached to the window of the vehicle.

6. How would a repair shop owner deal with vehicles they do not believe were actually damaged from an undomesticated animal?

-Repair shops are able to notify law enforcement if they feel a vehicle has been involved in a crash other than an animal/vehicle crash. Additionally, the NDHP is authorized to conduct "garage checks" for compliance of the DVR stickers. The NDHP is granted authority under subsection 5 of North Dakota Century Code 39-03-09. It states, "For the purpose of locating stolen vehicles and to investigate the title and registration thereof, to inspect any vehicle of a type required to be registered under the provisions of this title, in any public garage or repair shop, or in any place where such vehicles are held for sale or wrecking."

**Testimony – House Bill 1123
Senate Transportation Committee
Submitted by
James Prochniak, NDHP**

February 22, 2013

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- There are several advantages to eliminating the need to report animal/vehicle crashes including increased staffing efficiencies, redirected patrol efforts, and time saved for law enforcement and the public. The proposed change will not only benefit all law enforcement but also the motoring public by eliminating redundant paperwork.

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Montana
<p>All crashes over \$500 requires notification to a law enforcement agency</p> <p>All crashes over \$1000 requires a state crash report to be submitted</p> <p>Officers typically complete a state crash report for car/deer crashes (same form as a two-vehicle property crash)</p>
South Dakota
<p>All crashes over \$1000 are reported to law enforcement</p> <p>Laws are consistent with North Dakota</p>

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5. How will repair shops handle vehicles that are not displaying DVR stickers?
-Law enforcement officers place Damaged Vehicle Release (DVR) stickers to vehicles involved in a reportable crash. The intent of these stickers is to notify garages and repair shops that the vehicle crash has been reported to law enforcement. The stickers will not be placed on vehicles involved in animal/vehicle crashes since they will not be required to be reported to law enforcement. A repair shop owner would not be required to notify

law enforcement of vehicles failing to display a DVR sticker that were involved in an animal/vehicle crash. North Dakota Century Code 39-07-12 states, "...The police officer investigating any reportable accident shall attach a sticker to the window of any damaged vehicle showing that the accident in which such vehicle was involved has been investigated. If the vehicle does bear such a sticker, the garage or repair shop need not make the report this section requires and may begin repairs immediately..." The proposed legislation would make animal/vehicle crashes non-reportable, thus a DVR sticker would not be attached to the window of the vehicle.

6. How would a repair shop owner deal with vehicles they do not believe were actually damaged from an undomesticated animal?

-Repair shops are able to notify law enforcement if they feel a vehicle has been involved in a crash other than an animal/vehicle crash. Additionally, the NDHP is authorized to conduct "garage checks" for compliance of the DVR stickers. The NDHP is granted authority under subsection 5 of North Dakota Century Code 39-03-09. It states, "For the purpose of locating stolen vehicles and to investigate the title and registration thereof, to inspect any vehicle of a type required to be registered under the provisions of this title, in any public garage or repair shop, or in any place where such vehicles are held for sale or wrecking."