

2013 HOUSE TRANSPORTATION

HB 1144

2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee Fort Totten Room, State Capitol

HB 1144
01-24-13
Job # 17694

Conference Committee

Committee Clerk Signature

Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to covering a load in a vehicle and fee for a violation.

Minutes:

Attachment 1-3

Representative Ruby opened the hearing on HB 1144.

Representative Drovdal introduced HB 1144. He explained that this bill is about rocks that get thrown from gravel trucks and break windshields, and the need to tarp those gravel loads. He feels that it won't stop all broken windshields, but it will reduce them. He feels that the current law is unenforceable.

Representative Gruchella: Do you know if Representative Kempenich looked at the tarp law in Montana or South Dakota?

Representative Drovdal: We did look at a number of tarp laws. This is closer to the Wyoming law, but we thought it was the easiest to understand.

Representative Gruchella: Do Montana and South Dakota have a tarp law?

Representative Drovdal: I don't remember.

Chairman Ruby: Last session we heard a tarp law bill. There was a provision that if the load was so many inches from the top of the truck, the truck didn't need a tarp.

Representative Drovdal: I was told that they keep it below the truck box so they won't get stopped for overloads.

Alexis Brinkman, North Dakota Petroleum Council, spoke in support of HB 1144. She provided written testimony. See attachment #1.

There was no further support of HB 1144.

Tom Balzer, North Dakota Motor Carriers, spoke to oppose HB 1144. He submits that he has had five broken windshields in his lifetime, and has not sent a bill to any of them,

including the chip from a rock that was thrown by a Highway Patrol officer's car. He reminded the committee that the sub-base of a road is gravel, and the shoulders are gravel. There is gravel on the roadways as part of the construction process. Belly-dump trucks unload from the bottom of their trailers. They are closed, and the gravel is underneath. The trucks are kicking it out from underneath as part of the process. Gravel is not coming over the top in droves. The issue of trucks being blamed for gravel on roads is not new. It is not an oil industry issue. If the process is to remove rock chips, the legislature has a long battle ahead of them. This may or may not reduce rock chips. Rock chips come from the bottom of vehicles, from tires, or on the belly-dump mechanics. That's where the rocks are coming from. It is a random occurrence when someone gets a rock chip.

The other issue the Motor Carriers have with this bill is on lines 12-13. It states, "An individual may not operate a vehicle **for hire**..." That would exempt the Ag industry and anyone hauling on a private basis. So, is a private carrier, like Halliburton that is not "for hire" exempt as well, but the subcontractors that they hire are **not exempt**? The last three words of the bill say "on the vehicle". Does this mean that a belly-dump truck has gravel on the bottom of the truck, does the driver have to Saran Wrap the whole truck.

The cost of the tarps is between \$3000 and \$5000, depending on the type. From a gravel hauler's perspective, time is money, so, they will buy the electronic tarps. It is costly to put tarps on the trucks. The counties, state, and cities all haul gravel, as well.

The North Dakota Motor Carriers are opposed to this bill. There is also nonspecific language in the bill that creates a bigger issue.

Representative Weisz: On page two, the new language, would it be your interpretation that any amount of product in the trailer or truck would have to be covered, not just if it is a hazard, but if you had any product?

Tom Balzer: I would say that any quantity of sand or gravel would have to be covered.

Representative Delmore: What if we took out Section 2 of the bill and just left in the \$500 for the people that didn't cover their load. If we didn't exempt anyone, would you still oppose the bill?

Tom Balzer: I'd feel better about it, but would probably still oppose it.

Representative Kreun: The "for hire" thing is a question. We have the same problem in our area, but it is sugar beets. They come off of the loads all of the time. They are a safety hazard. If it is "for hire", you are not exempting all agriculture, are you?

Tom Balzer: My understanding is that this bill is just specifically targets sand and gravel. Then, any Ag commodity would be exempt from this.

Representative Kreun: Then this doesn't solve problems in our part of the state. (13:55)

Russ Hanson, The Associated General Contractors of North Dakota, spoke to oppose HB1144. He agrees with the opinions of Tom Balzer. In answer to Representative

Gruchella question, Minnesota has a tarping law, and South Dakota does not, but it is a bill that is introduced there and discussed every session. The Associated General Contractors of North Dakota recognizes the problem out there. Being in the construction industry, the biggest complaint we get is when we do a chip seal project. He provided an e-mail that was written by Alan Lindberg in response to HB 1144. See attachment #2. The cost is also a concern to our industry as well as the cost for governmental agencies. He stated that he would like legislators to take in consideration the multiple causes of chips in windshields, and wonders if this policy will solve the problem. (16:35)

Ron Henke, North Dakota Department of Transportation, Office of Operations, spoke in a neutral position on HB 1144. He provided written testimony. See attachment #3

Representative Delmore: The tarps don't have to be automatic to cover the gravel, do they? Aren't the automatic ones more expensive? Would you be concerned that automatic tarps would be put on all of the vehicles?

Ron Henke: Yes, the tarps are more expensive, but we operate in the worst conditions and from a safety aspect for our operators, we would probably use automatic tarps. We load and unload frequently.

Chairman Ruby: It may be cheaper initially to go with a hand tarp, but the savings would get eaten up by the time it would take to cover and uncover each time.

Representative Gruchella: Would an amendment on this bill to exempt the government agencies take care of your issue?

Ron Henke: I believe so.

Representative Gruchella: From what I have seen, the government agencies aren't the ones that are causing the problem. They keep the loads down and are concerned about it.

Chairman Ruby closed the hearing on HB 1144.

2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee Fort Totten Room, State Capitol

HB 1144
01-25-13
Job # 17761

Conference Committee

Committee Clerk Signature

Jeanette Cook

Minutes:

Attachment #1

Chairman Ruby brought HB 1144 back before the committee for discussion. He provided proposed amendments that are clean up. See attachment #1.

Chairman Ruby reviewed the bill and the amendment.

Representative Gruchella: In the places that have the tarp bill, and a driver's load is tarped, if a rock comes from some other area of the truck, the driver is not liable. The law just says that the load has to be tarped.

Chairman Ruby: We haul different types of debris on my open top roll off trucks, and they are required to be tarped. We are required to make sure that something doesn't fall off, and we are liable if something does fall off. I also think that on a windy day a lot of sand will still blow out even if the load is tarped. The auto-tarps are not tight all the way around. I don't know if this law will fix the problem, especially when it is windy.

Representative Kreun: Is there a way to tarp a side-dump?

Chairman Ruby: Yes, they are on one side, and they come all the way across.

Representative Weisz moved the amendments. See attachment #1.

Representative Vigesaa seconded the motion.

Representative Weisz: Just to clarify, if you look at the language on page 2, it is clear that any aggregate that might be on the vehicle is also covered in this bill. It is not just aggregate within the load.

A voice vote was taken. All aye. The motion passed.

Vice Chairman Owens: Because of the way that this is written: "within" or "on the vehicle". I would like to move an amendment on page 2, line 6 and 13, that after "within" the words "are on the" are deleted in both cases.

**Representative Vigesaa seconded the motion.
A voice vote was taken. All aye. Motion carried.**

Representative Oversen: The issue about a vehicle "for hire" was discussed. Did we decide that those vehicles would be exempt?

Vice Chairman Owens: Beginning on line 8 it states that "an individual may not operate...". That is the part that includes an individual that owns a vehicle. Then they added "for hire" to cover those vehicles to be included in the restrictions as well.

There was further discussion about the words "an individual" and other questions about the Code language.

Representative Drovdal: If we don't understand this, I believe we need to get a Code reviser down here and question them.

Chairman Ruby: We can ask Tim Dawson to come down.

Representative Weisz: The current language of 39.2144.1 basically states what they want, to secure the load. Section 1 in the violation, they merely added, "if a load of sand or gravel is not securely covered there will be a penalty of \$500". Current law already says that you have to secure the load. That is in Section 2. I don't know why they added the bottom language. It is clear the load must be covered.

Chairman Ruby: We may also need to retain the portion that says "or on the vehicle" because it could be something that is on a flatbed.

Representative Schatz: You do get flatbed trucks with a pile of sand on them. That would have to be "or on" rather than "within".

Representative Schatz moved to reamend and add "or on" back into those sections, on line 6 and on line 13.

**Representative Delmore seconded the motion.
A voice vote was taken. All aye. The motion carried.**

Representative Heller: What is the current fine for getting picked up for this violation?

Representative Weisz: It is \$25.00.

The bill will be held for further discussion.

2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

HB 1144
02-08-13
Job # 18622

Conference Committee

Committee Clerk Signature

Jeanette Cook

Minutes:

Chairman Ruby brought HB 1144 back before the committee. He reviewed the bill and amendment.

Representative Drovdal moved and amendment to reduce the fee from \$500 to \$100.
Representative Sukut seconded the motion.
A voice vote was taken on the amendment. All aye.
The motion carried.

Representative Kreun moved a **DO NOT PASS** as amended.
Representative Heller seconded the motion.

Representative Drovdal: When the presentation was made it was clear that this will not solve all of the problems. But, there is a problem with trucks on the highways. My constituents are really irritated when the gravel trucks already have tarps on them, but they just don't use them. I am going to resist the motion. I think it is time after all of these years to make this mandatory.

Representative Sukut: I had a number of contacts after the last session when we did not pass the tarp law. I promised my constituents that if we have another tarp law, I will support it. It is a real problem in our area.

Representative Gruchella: If you have your load securely tarped, and something comes off of the load, the driver is covered, the way this is worded.

A roll call vote was taken on HB 1144. Aye 8 Nay 5 Absent 1
The motion carried.
Representative Heller will carry HB 1144.

13.0256.01002
Title.02000

Adopted by the Transportation Committee

2/8/13
JSTW

February 8, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1144

Page 1, line 23, replace "49-21-44.1" with "39-21-44.1"

Page 1, line 24, replace "five" with "one"

Page 2, line 12, replace "many" with "may"

Renumber accordingly

Date: 1-25-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1144**

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 Weisz Seconded By Vigesaa
Amendment

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 Vigesaa					
Rep. Robin Weisz					

Total (Yes) 14 No 0

Absent 0

Floor Assignment _____

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

Attachment #1

Date: 1-25-13
 Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1144

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 Vigesaa

Amendment

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 Vigesaa					
Rep. Robin Weisz					

Vote
Vote
all

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

p. 2 Line 6 + 13 (or on)

Date: 1-25-13
 Roll Call Vote #: 3

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1144**

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 Schatz Seconded By Delmore
Re-Amend

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

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Add "or on" back into sections on line 6 + line 13.

Date: 2-8-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0256.01002

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Drovdal Seconded By Sukut

Amendment

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 Vigesaa					
Rep. Robin Weisz					

Handwritten notes:
Vote
note
all up

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2-8-13
 Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1144**

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0256.01002

Action Taken: Do Pass Do Not Pass Amended Adopt
 Amendment

Rerefer to Appropriations Reconsider

Motion Made By Kreun Seconded By Heller

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	A				
Rep. Gary Sukut		✓			
Rep. Don Vigesaa	✓				
Rep. Robin Weisz	✓				

Total (Yes) 8 No 5

Absent 1

Floor Assignment Heller

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

REPORT OF STANDING COMMITTEE

HB 1144: Transportation Committee (Rep. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1144 was placed on the Sixth order on the calendar.

Page 1, line 23, replace "49-21-44.1" with "39-21-44.1"

Page 1, line 24, replace "five" with "one"

Page 2, line 12, replace "many" with "may"

Renumber accordingly

2013 TESTIMONY

HB 1144

13.0256.01001
Title.

Prepared by the Legislative Council staff for
Representative Kempenich
January 12, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1144

Page 1, line 23, replace "49-21-44.1" with "39-21-44.1"

Page 2, line 12, replace "many" with "may"

Renumber accordingly

1



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**Testimony of Alexis Brinkman
House Bill 1144
House Transportation Committee
January 24, 2013**

Chairman Ruby and members of the House Transportation Committee, my name is Alexis Brinkman, and I am here today representing the North Dakota Petroleum Council. The North Dakota Petroleum Council represents more than 400 companies in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oilfield service activities in North Dakota. I appear before you today in support of House Bill 1144.

Last session we opposed similar legislation – the tarps are costly for smaller companies to implement and do not always stop a load from shifting. However, despite industry efforts to encourage subcontractors to slow down and lessen their loads, we continue to hear complaints on the issue and take the blame for countless rock chips and cracked windshields. Gravel trucks are not branded, and it's tough to tell whom they belong to. In our industry, direction from our producers to their contractors will usually take care of any issue that comes up, but this seems to be one that we have been unable to take care of, and it may be time to take further action.

We urge a Do Pass on HB 1144. I would be happy to answer any questions.

#2

Russ Hanson

From: alan lindberg <alanl@daktel.com>
Sent: Tuesday, January 22, 2013 10:32 AM
To: Mark Dougherty; Russ Hanson
Subject: HB 1144 Truck Tarping

Mark: Although this "might" make sense for hauling on paved highways, it makes no sense for many of us who haul short distances, usually on gravel roads or city streets at less than 40 mph. (And nearly always, poor tailgates or poor belly dump gates are the problem with losing sand or gravel). Perhaps this is an area to be of concern rather than "tarping".

To tarp a semi trailer will cost approximately \$ 3,500 each, times 4, is \$ 14,000.00.
To tarp a tandem dump truck will cost approximately \$ 2,800 each, times 5 trucks, \$ 14,000.00.
Total for us is approximately, \$ 28,000.00!

In my experience, the "problem" trucks losing loads over the top are tree removal contractors, and demolition debris contractors.

Alan Lindberg

3

SENATE TRANSPORTATION COMMITTEE

January 24, 2013

9:00 a.m. – Fort Totten Room

**North Dakota Department of Transportation
Ron Henke, Director, Office of Operations**

HB 1144

Mr. Chairman and members of the committee, I'm Ron Henke, Office of Operations Director at the North Dakota Department of Transportation (DOT). Thank you for providing the opportunity to present some information to you today.

We would like to share with you the affect that HB 1144 would have on the DOT. The way we understand HB 1144, is that it would require the Department to put tarps on all of our trucks and some trailers.

The Department has done some research on the cost to install automatic tarps. It is estimated that it would cost approximately \$1.36 million to comply with this bill. In addition, we contacted a Department of Transportation in another state with a similar law, and they shared that from a maintenance stand point, they replace approximately one tarp per truck per year and one tarp motor per truck every five years.

We would also like to share with you that the Department does have an occasional claim from the public for material falling from our trucks. Last year, we had 11 claims with the cost of each claim averaging about \$300.

Thank you Mr. Chairman, This concludes my testimony.