

2013 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2117

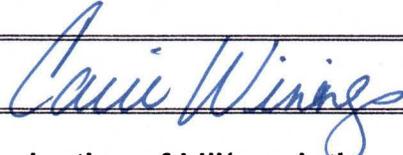
2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2117
01/18/2013
Job Number 17397

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to marking on official state vehicles

Minutes:

Chairman Dever: Opened hearing on SB 2117.

Rebecca Ternes, Deputy Commissioner, North Dakota Insurance Department: See Attachment #1 in support.

(5:30) Chairman Dever: Why is there such an increase from 2007 on your chart?

Rebecca Ternes: We know that part of the increase was when we hired Mr. Pitman in 2009. We know that police officers and other investigators sometimes are not very comfortable investigating insurance fraud. They don't know the subject and they don't know what trails to run down. We also think possibly the economy in general nationwide may have had something to do with this. I think it is a tattle-tail syndrome when we do take action either against an agent or someone is prosecuted for the crime of insurance fraud, it does tend to make the news and we can get other reports in after that. Certainly when Commissioner Hamm took office that was much more of a focus. He is an ex prosecutor so it is something he knows. We spend more time on it than we used to especially since we hired the investigators.

Chairman Dever: Probably stepped up efforts had more to do with increased fraud.

Rebecca Ternes: Correct.

Chairman Dever: The bill applies to the Attorney General's office, Highway Patrol, vehicles used in juvenile parole, and placement services and now the Insurance Commissioner's office. Are there other agencies like WSI that should be seeking the same?

Rebecca Ternes: I am not sure about WSI; I think there is one other agency here that may ask to be added to the list today.

Dale Pittman, North Dakota Insurance Fraud Officer: I understand that they did apply several years ago but since they are not licensed police officers they were denied.

Senator Nelson: apparently the way this is reading, everyone in the office can have... to me you are opening this wide open,

Senator Nelson: I am a little confused here because your office is quite large and you are saying that apparently everyone could have a car. I think what you are implying is just your fraud division can have a car with these things on it (reads from bill to clarify intent).

Rebecca Ternes: We followed language of the Attorney General's office, we would be happy to make a change if that would make you feel more comfortable. We just added our name to the list.

Chairman Dever: (reads from the bill) where does it say that it has to be a licensed police officer?

Senator Nelson: It doesn't except in her testimony.

Rebecca Ternes: That is correct. This is the section of the code that deals with being able to drive a state vehicle that is not identified as a state vehicle. Our remedy for being able to do that was to be added to the list.

(10:40) Robert Timian, Chief Game Warden, North Dakota Game and Fish: Testified in support of the bill and to be added to the list. We are asking that our game and fish law

enforcement vehicles be included in this bill for exclusion in marking. The vast majority of our enforcement vehicles, we already mark them in accordance with Class A emergency vehicles and state fleet license plates, but we also use in our investigative unit and sometimes even the wardens' vehicles for covert or plain clothes work. We do a number of investigations and it is best if those vehicles are not marked with the state emblem.

Chairman Dever: Would motor vehicles include airplanes?

Robert Timian: I do not believe so under the statute, and we are not concerned about air planes.

(12:35) Tom Trenbeath, Chief Deputy Attorney General: See Attached Testimony #2 in support of the bill and to be included in the exemption. See Attachment #3 for amendment proposed.

(15:00) Senator Cook: Have you put the no smoking stickers in all of the vehicles now?

Tom Trenbeath: We have not.

Senator Cook: You are breaking the law.

Tom Trenbeath: That is correct.

Senator Cook: Is it safe for me to assume that some of these people that work for you do in fact smoke?

Tom Trenbeath: I have no personal knowledge of that but it would not surprise me if they did. They do not in their vehicles.

Senator Cook: In order for them to do the deals that they make and live in the undercover world, I could see where they might have someone in the car that smokes.

Tom Trenbeath: That could happen and maybe does, but I don't think our agents do; it is a rule at our shop that we don't smoke in our vehicles.

Senator Cook: You could still have a need for a vehicle that someone could smoke in?

Tom Trenbeath: True.

Senator Cook: What I am getting at is that there is one agency out there that should probably be exempted even further?

Tom Trenbeath: That could be and if this legislative body by a 2/3 vote decides that that is the case we would certainly be welcome to that. We would need that for this one and you will note that the amendment I passed out would need an emergency clause also because of your first question of whether or not we presently have those.

Senator Cook: Are you aware of the House bill that would solve this problem for you and many others.

Tom Trenbeath: I do not believe I am. I would be anxious to see it.

Chairman Dever: I do not see in this section where it spells out that the exemption is only for investigative purposes. It seems to me that it could apply to any vehicle used by the agency.

Tom Trenbeath: That is absolutely true. It is just our agency does not own any other vehicles than those that are owned by BCI for investigative purposes.

Tom Trenbeath: To back up to prior testimony, it does not mention law enforcement anywhere in these bills and I think that is something that the legislature itself is sensitive to in granting exemptions.

Chairman Dever: Probably the only place in here is the last sentence where it talks about the state highway patrol and all peace officers of the state shall enforce the section.

Senator Cook: Does the Attorney General's office have the authority to allow an employee to work in their own vehicle and reimburse them for expenses.

Tom Trenbeath: No more authority than any other agency does. We grant exemptions for travel on occasion and for good cause and each of those are signed off on by me. If one of

our gaming people is going out to do an audit on a site, ordinarily they use a state fleet vehicle and are obligated to do so just as every other agency.

Senator Cook: Could you allow them to work all of the time in their own vehicle?

Tom Trenbeath: I do not believe so. Generally speaking the entire agency, as the entire state government, is under the obligation to use the motor pool other than the exemptions that are granted.

Chairman Dever: Any other testimony in support, opposition, neutral?

Senator Cook: I have one more question of Rebecca? You heard Tom's answer to the question on ownership, does the insurance commissioner's office own any other vehicles other than the ones used by the police.

Rebecca Ternes: We do not own our vehicles. They are motor pool vehicles that are assigned to the agency. They are not agency vehicles.

Senator Cook: Then this would not solve your problem.

Rebecca Ternes: I have not seen the full amendment as it is written.

Senator Cook: So these folks when they go on the job, they go to motor pool and get a vehicle?

Rebecca Ternes: No, they are assigned to our officers by name. So they have their keys. They are the only ones that can use that vehicle. We have special lights installed in our vehicles and other items that they keep in their vehicles that are specific to their work.

Senator Cook: But they are owned by motor vehicle?

Rebecca Ternes: Yes.

Chairman Dever: Closed hearing on SB 2117.

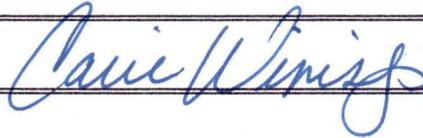
2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2117
01/25/2013
Job Number 17775

Conference Committee

Committee Clerk Signature



Minutes:

Chairman Dever: Opened SB 2117 for discussion.

Chairman Dever: We have 2 amendments suggested. One was to include game and fish and the other was from the Attorney General's office to remove the requirement to have a no smoking sign in the car.

Senator Nelson: Is there also an amendment to be more specific and say the insurance commissioner's fraud division office.

Chairman Dever: I believe they said that was the only reason they use cars for.

Senator Cook: Forgive me for being different, but I tend to believe the people of North Dakota created the problem through an initiated measure and they can solve it the same way. It would be a good educational lesson.

Chairman Dever: I can see where it would be a problem for the Attorney General's agents.

Senator Poolman: (asked a question regarding the amendment process and what would be best and the committee discussed exactly what they would want)

(4:01)Senator Poolman: Moved to amend the bill to include Game and Fish

Department on Line 18 and the proposed amendments as proposed by the Attorney General's office.

Vice Chairman Berry: Seconded.

A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.

Amendment passed.

Chairman Dever: Any discussion?

Senator Cook: I know we have an amended bill before us, but isn't there a way that we can solve this problem without being specific to the Attorney General's office, Highway Patrol, Insurance Commissioner's office, etc? Isn't there another way we can describe these vehicles? For example, law enforcement vehicles that require investigation or something like that.

Senator Nelson: You mean "vehicles involved in investigative work"?

Senator Cook: Yes.

Vice Chairman Berry: Is that too broad? I understand that every session coming in here and having an agency come down and ask to be included is redundant.

Chairman Dever: I am not sure the word investigative is specific enough.

Senator Nelson: Maybe the intern can come up with something that takes care of lines 17-19.

Senator Cook: I find this whole thing is ... We have to have a law that North Dakota has to be on state vehicles, how big they are....Just curious to know when that got put on.

Chairman Dever: We would still reference the requirements for no smoking signs.

Closed discussion on SB 2117.

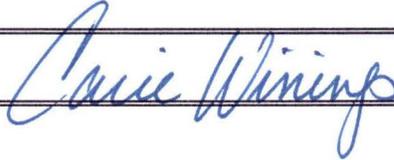
2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2117
02/01/2013
Job Number 18131

Conference Committee

Committee Clerk Signature



Minutes:

Chairman Dever: Opens SB 2117 for committee discussion.

Attachment #1 passed out for amendments proposed to replace prior amendment adopted.

(Discussion of the amendments proceeds to understand what the committee would be doing by adopting new amendments proposed.)

(3:38)**Senator Cook:** This bill would take a 2/3 vote to pass, correct?

(Committee discussed whether or not that was the case.)

(6:12)**Senator Nelson:** Moved to reconsider the amendment adopted thus removing.

Vice Chairman Berry: Seconded.

A Voice Vote Was Taken: All were in favor.

Vice Chairman Berry: Moved to replace and adopt new amendment 13.8064.01001.

Senator Poolman: Seconded.

A Roll Call Vote Was Taken: 5 yeas, 1 nay, 1 absent.

Amendment is passed.

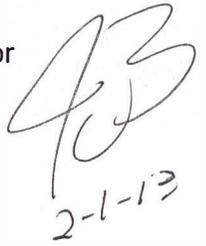
Vice Chairman Berry: Moved Do Pass As Amended.

Senator Poolman: Seconded.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 1 absent.

Vice Chairman Berry: Carrier.

January 25, 2013



Handwritten signature and date: 2-1-13

PROPOSED AMENDMENTS TO SENATE BILL NO. 2117

Page 1, line 2, after "vehicles" insert "; and to declare an emergency"

Page 1, line 17, after "requirements" insert "and the requirements for no smoking signs"

Page 1, line 17, overstrike "the attorney"

Page 1, line 18, overstrike "general's office, the highway patrol,"

Page 1, line 18, remove "the insurance commissioner's office."

Page 1, line 18, overstrike "or vehicles used"

Page 1, line 19, overstrike "principally in juvenile, parole, and placement services" and insert immediately thereafter "a state entity that engages in investigatory activities"

Page 1, after line 21, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Re-number accordingly

Date: 1/25

Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2117

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider + Game + Fish
Tom Trenbeath

Motion Made By Senator Poolman Seconded By Senator Berry

Senators	Yes	No	Senator	Yes	No
Chairman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais	✓	
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Date: 2/1/13
 Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES

BILL/RESOLUTION NO. 2117

Senate Government and Veterans Affairs Committee
 (Remaining Prior Amendment)

Check here for Conference Committee

Legislative Council Amendment Number Reconsider previous action

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

Motion Made By Senator Nelson Seconded By Senator Berry

Senators	Yes	No	Senator	Yes	No
Chairman Dick Dever			Senator Carolyn Nelson		
Vice Chairman Spencer Berry			Senator Richard Marcellais		
Senator Dwight Cook					
Senator Donald Schaible					
Senator Nicole Poolman					

all in favor

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2/1/13
 Roll Call Vote #: 2

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. 2117

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number Replace w/ 13.8064.01001

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

Motion Made By Senator Berry Seconded By Senator Poolman

Senators	Yes	No	Senator	Yes	No
Chairman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais	✓	
Senator Dwight Cook		✓			
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 5 No 1

Absent 1

Floor Assignment _____

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

Date: 2/1/13
 Roll Call Vote #: 3

2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES

BILL/RESOLUTION NO. 2117

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.8004.01001 02000

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

Motion Made By Senator Berry Seconded By Senator Poolman

Senators	Yes	No	Senator	Yes	No
Chairman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais		✓
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Senator Berry

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

REPORT OF STANDING COMMITTEE

SB 2117: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2117 was placed on the Sixth order on the calendar.

Page 1, line 2, after "vehicles" insert "; and to declare an emergency"

Page 1, line 17, after "requirements" insert "and the requirements for no smoking signs"

Page 1, line 17, overstrike "the attorney"

Page 1, line 18, overstrike "general's office, the highway patrol,"

Page 1, line 18, remove "the insurance commissioner's office,"

Page 1, line 18, overstrike "or vehicles used"

Page 1, line 19, overstrike "principally in juvenile, parole, and placement services" and insert immediately thereafter "a state entity that engages in investigatory activities"

Page 1, after line 21, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Re-number accordingly

2013 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2117

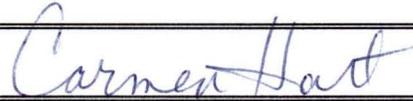
2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee Fort Union Room, State Capitol

SB 2117
March 7, 2013
19548

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to marking on official state vehicles; and to declare an emergency.

Minutes:

You may make reference to "attached testimony."

Chairman Jim Kasper opened the hearing on SB 2117.

Rebecca Ternes, Deputy Commissioner, ND Insurance Department, appeared in support. I want to alert you to the related bill which would be 1292. HB 1292 discussed no smoking signs which ended up being amended into this bill. **Attachment 1.** (:38-4:50)

Tom Trenbeath, Chief Deputy Attorney General, appeared in support. He described one of his agents weighing about 275 pounds, having multiple piercings and tattoos, and wearing a Mohawk. If he doesn't show up to the drug deal on his Harley, he shows up in a state vehicle. If you ask any agent or any reformed or presently practicing drug addict, you will find out one thing and that is they are not always the sharpest tool in the shed, but they are paranoid. Any little thing that will tip them off to the fact that this isn't a legitimate person will send them running. This body has exempted us from the signs on the doors in the past and from the official license plate in the past. This certainly can't have been a consequence that was intended by the general public when they voted for the recent initiated measure.

The hearing was closed.

Rep. Ben Koppelman made a motion for a Do pass.

Rep. Karen Rohr seconded.

A roll call vote was taken and resulted in **DO PASS, 12-0, 2 ABSENT.** A carrier will be assigned a little later. **Rep. Marie Strinden** was assigned as the carrier.

Date: 3-7-13
 Roll Call Vote #: _____

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2117**

House Government and Veterans Affairs 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 B. Koppelman Seconded By Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman	X	
Vice Chairman Randy Boehning	X		Rep. Gail Mooney	X	
Rep. Jason Dockter	X		Rep. Marie Strinden		
Rep. Karen Karls	X		Rep. Steven Zaiser	X	
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Gary Paur					
Rep. Karen Rohr	X				
Rep. Vicky Steiner	X				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Strinden

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

REPORT OF STANDING COMMITTEE

SB 2117, as engrossed: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2117 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2117

SENATE BILL NO. 2117

Presented by: Rebecca L. Ternes
Deputy Commissioner
North Dakota Insurance Department

Before: Senate Government and Veterans Affairs Committee
Senator Dick Dever, Chairman

Date: January 18, 2013

TESTIMONY

Good morning, Chairman Dever. My name is Rebecca Ternes and I am the Deputy Insurance Commissioner at the North Dakota Insurance Department. The Department stands in support of Senate Bill No. 2117.

The bill seeks to amend Section 39-01-02, which adds the North Dakota Insurance Department to the list of state agencies allowed to drive state motor pool cars not identifiable by the state license plate and decals. The agencies already covered by this language are the Attorney General's Bureau of Criminal Investigations, the Highway Patrol and the vehicles used in juvenile, parole, and placement services.

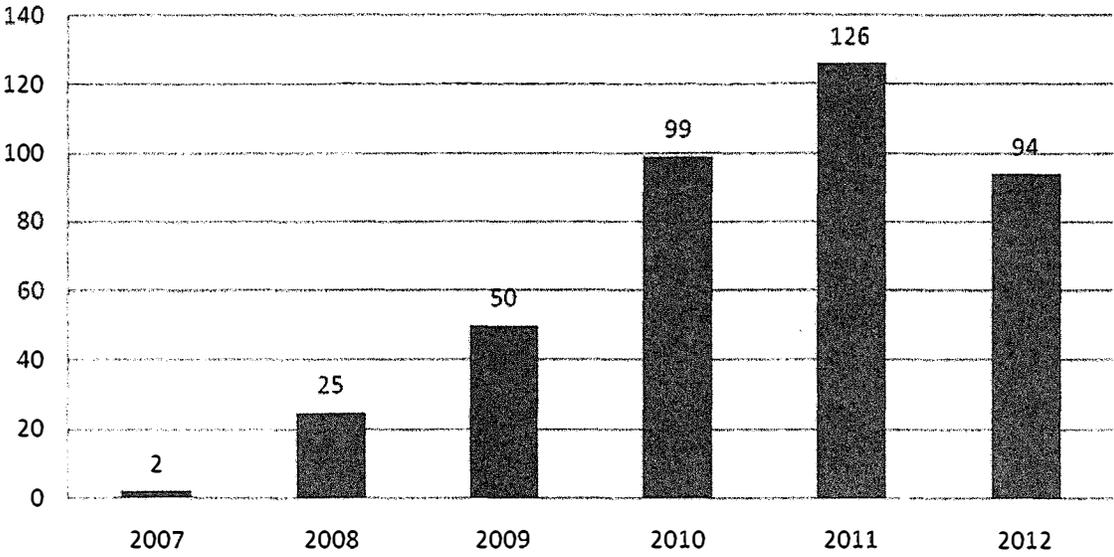
Investigators from the Department's Fraud Unit are licensed peace officers that have full police powers including conducting criminal investigations, serving warrants, interrogating suspects, processing crime scenes and conducting surveillance activities.

While insurance fraud is often referred to as a "white collar crime," we have found that it is a crime committed by people from all walks of life with no predictable demographic. The risk to our investigators is equally unpredictable and no different than the risk shared by officers of the Bureau of Criminal Investigations, the Highway Patrol and the juvenile, parole, and placement services.

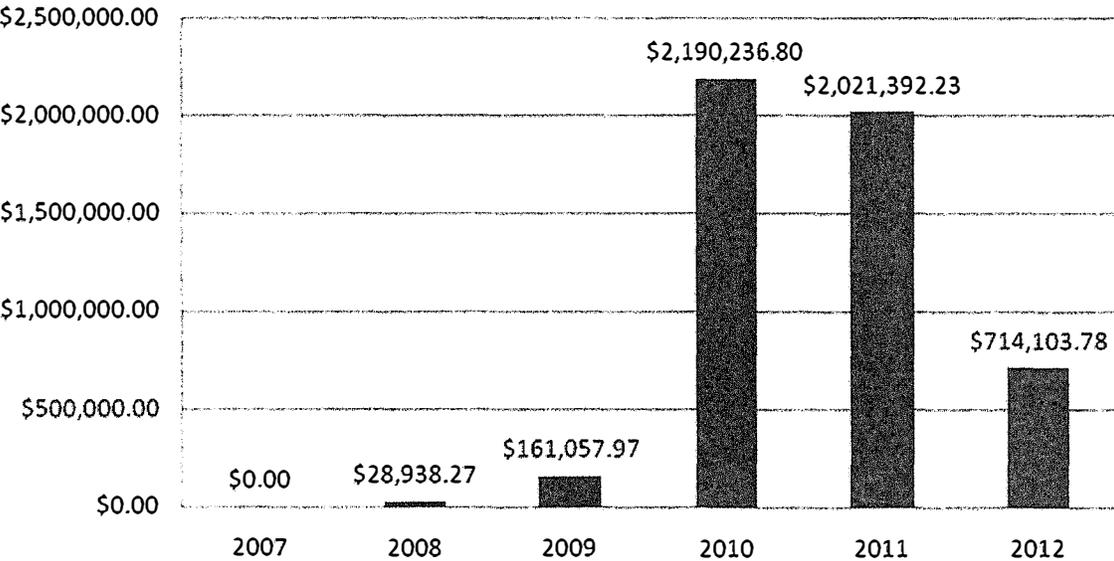
Our investigators currently have State Motor Pool vehicles assigned to them, which can easily be identified by the "SF" license plate and the "State of North Dakota" decals on the windows. These identifiers can often undermine surveillance activities and the safety of these officers.

The Department respectfully requests your support of Senate Bill No. 2117. I would be happy to answer any questions.

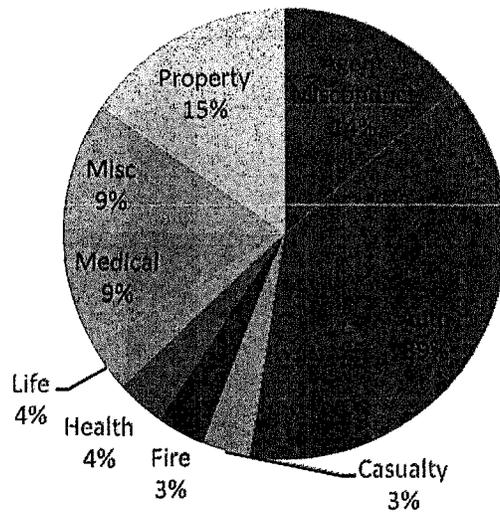
Reports to NDID Fraud Unit By Date Reported



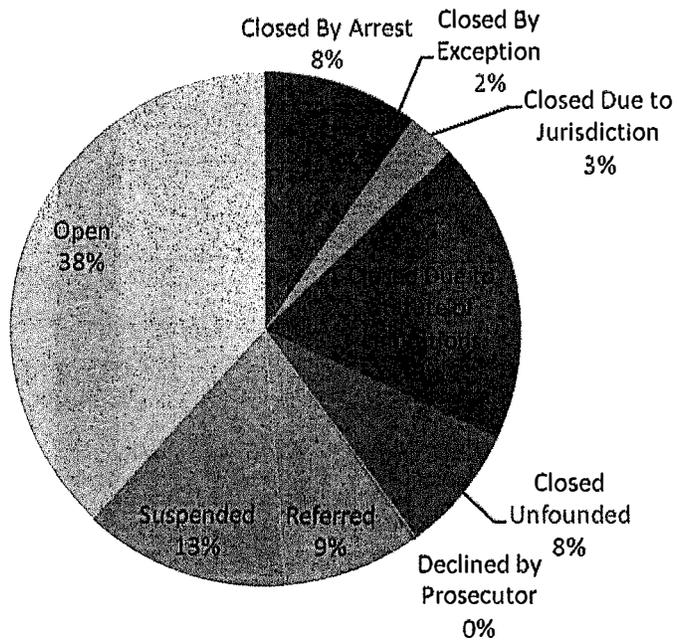
Reports to NDID Fraud Unit Actual Loss Amounts



Percentage of Cases By Case Type



Cases by Status



SB 2117

TESTIMONY OF THOMAS L. TRENBEATH

CHIEF DEPUTY ATTORNEY GENERAL

Mr. Chairman, members of the Senate Committee on Government and Veterans Affairs, my name is Tom Trenbeath and I have the continuing honor of serving the State of North Dakota as its Chief Deputy Attorney General. SB 2117 presents an opportunity for the Legislature to correct an unintended consequence of the recently adopted initiated measure concerning smoking in the workplace. I am NOT here to attempt to persuade you that the Office of Attorney General should be exempted from that smoking ban.

I am, however, here to point out a seemingly innocuous requirement that presents a real danger to our public safety mission – the requirement that all workplace vehicles be equipped with a clearly visible sign indicating that smoking is prohibited in the vehicle. You see our largest division is the Bureau of Criminal Investigation. In performing its law enforcement function the Bureau maintains a fleet of 42 passenger vehicles. These vehicles are used, statewide, by BCI Agents in undercover work and are exempted from the state fleet license plate requirement in order to maintain their “plain clothes” status. You can imagine the problems which may arise by placing a sticker or other sign on each vehicle identifying it as a work vehicle.

In the interest of effective law enforcement and personal safety of our agents, the Attorney General requests this exemption.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2117

Page 1, line 2, after "vehicles" insert "; and to declare an emergency"

Page 1, line 17, after "requirements" insert ", and the requirements for no smoking signs."

Page 1, after line 21, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

13.8064.01001
Title.

Prepared by the Legislative Council staff for
Senate Government and Veterans Affairs
Committee

January 25, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2117

Page 1, line 2, after "vehicles" insert "; and to declare an emergency"

Page 1, line 17, after "requirements" insert "and the requirements for no smoking signs"

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Renumber accordingly

SENATE BILL NO. 2117

Attachment 1

Presented by: Rebecca L. Ternes
Deputy Commissioner
North Dakota Insurance Department

Before: House Government and Veterans Affairs Committee
Representative Jim Kasper, Chairman

Date: March 7, 2013

TESTIMONY

Good morning, Chairman Kasper. My name is Rebecca Ternes and I am the Deputy Insurance Commissioner at the North Dakota Insurance Department. The Department stands in support of Senate Bill No. 2117.

The bill originally sought to amend Section 39-01-02 by simply adding the Insurance Department to the list of state agencies allowed to drive state motor pool cars not identifiable by the state license plate and decals. The agencies already covered by this language are the Attorney General's Bureau of Criminal Investigations, the Highway Patrol and the vehicles used in juvenile, parole, and placement services.

At the hearing in the Senate, the Attorney General's office requested the bill also be amended to exempt these same vehicles from the no smoking sign requirement passed through the initiated measure process. Game and Fish also testified they would like to be added to the list of agencies in the bill.

The Senate Government and Veterans Affairs Committee amended the bill by exempting all state entities that engage in investigatory activities from the license plate and decal requirements, removed the requirement for no smoking signs, and added an emergency clause. It was pointed out on the Senate floor during the carrier's speech

that the bill, because of the initiated measure, required a two-thirds majority vote to pass. The bill passed unanimously.

Investigators from the Department's Fraud Unit are licensed peace officers that have full police powers including conducting criminal investigations, serving warrants, interrogating suspects, processing crime scenes and conducting surveillance activities.

While insurance fraud is often referred to as a "white collar crime," we have found that it is a crime committed by people from all walks of life with no predictable demographic. The risk to our investigators is equally unpredictable and no different than the risk shared by officers of the Bureau of Criminal Investigations, the Highway Patrol and the juvenile, parole, and placement services.

Our investigators currently have State Motor Pool vehicles assigned to them, which can easily be identified by the "SF" license plate and the "State of North Dakota" decals on the windows. These identifiers can often undermine surveillance activities and the safety of these officers.

The Department respectfully requests your support of Senate Bill No. 2117. I would be happy to answer any questions. Thank you.