

1999 SENATE TRANSPORTATION

SB 2435

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2435

Senate Transportation Committee

Conference Committee

Hearing Date February 5, 1999

Tape Number	Side A	Side B	Meter #
1	x		1-1403
Committee Clerk Signature <i>Don B. Schaeffer</i>			

Minutes:

SENATOR SCHOBINGER called the hearing to order on SB 2435. Committee members present included: Sens. R. Schobinger, D. Mutch, D. Cook, V. Thompson, and D. Bercier.

Senator Bob Stenehjem and Senator David O'Connell were absent.

SENATOR LYSON, DISTRICT #1 testified in support of SB 2435. I know there are problems with collision reports and using engineer driver's license that is involved in the collision. It's hard sometimes to get their license back and their insurance straightened out.

SENATOR JOEL HEITKAMP, DISTRICT #27 testified in support of SB 2435. The Mainline CP goes right through my district. You can see where the problem would lie. Many of us have seen or heard of these accidents where the driver is clearly at fault. Now to include the engineers driver's license and muddy up their insurance because they couldn't stop on a dime just isn't fair.

SENATOR BERCIER Have there been any incidents where this has happened?

SENATOR HEITKAMP In other states this has happened but this is good preventative maintenance.

MIKE MUSCHA, BROTHERHOOD OF LOCOMOTIVE ENGINEERS testified in support of SB 2435 (see testimony).

SENATOR BERCIER The license you have for certification that allows you to operate a train. Can a highway patrolman take this license from you?

MIKE MUSCHA No, they wouldn't take it but they would take the information down. It is a federal law that you have to have a certificate to operate a locomotive. Any type of infraction with the barrel they will pull your license and you can't get back on the train without that. If you are on the job without that they will pull you out of service.

SENATOR BERCIER Everybody whether they are on the long line or short line has to have their certification with them.

MIKE MUSCHA Yes.

SENATOR BERCIER Can a highway patrolman pull it from you if you were drunk?

MIKE MUSCHA I believe he can pull it but the railroad would have to come on to the property.

SENATOR BERCIER When you come to an intersection where there is no underpass or overpass, is there a protocol you follow that are different from one intersection to another?

MIKE MUSCHA The federal railroad administration sets the track speed and if the track is capable of going at 60 mph the train will run at track speed. We do commence one whistle at a quarter mile away and continue through the crossing.

JOHN RISCH, UNITED TRANSPORTATION UNION testified in support of SB 2435 (see testimony).

Page 3
Senate Transportation Committee
Bill/Resolution Number Sb2435
Hearing Date February 5, 1999

SENATOR SCHOBINGER Is a train considered a motor vehicle?

JOHN RISCH No, and that is why whenever there is an accident we always cooperate.

SENATOR COOK Are railroad police called to every crossing accident?

JOHN RISCH I think they are when they are available. But there are railroad officials that come to every single railroad accident.

SENATOR SCHOBINGER Is there any more testimony?

SENATOR SCHOBINGER We will close the hearing on SB 2435.

SENATOR COOK I motion for a Do Pass.

SENATOR MUTCH I second the motion.

SENATOR BERCIER asked Captain Neil Johnson of the ND Highway Patrol if there was a problem in not using the driver's license in an accident report.

NEIL JOHNSON Our job is to identify the people involved. We would have no problem with this bill.

A roll call vote was taken (7 Yeas, 0 Nays and 0 Absent and Not Voting).

Senator Bercier will carry SB 2435.

Date: Feb. 5, 1999

Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2435

Senate Transportation Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass

Motion Made By Sen. Cook Seconded By Sen. Mutch

Senators	Yes	No	Senators	Yes	No
Sen. B. Stenehjem-Chairman	✓				
Sen. R. Schobinger-V. Chair	✓				
Sen. Duane Mutch	✓				
Sen. Dwight Cook	✓				
Sen. David O'Connell	✓				
Sen. Vern Thompson	✓				
Sen. Dennis Bercier	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Bercier

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

REPORT OF STANDING COMMITTEE (410)
February 12, 1999 3:38 p.m.

Module No: SR-29-2827
Carrier: Bercier
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2435: Transportation Committee (Sen. B. Stenehjem, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2435 was placed on the Eleventh order on the calendar.

1999 HOUSE TRANSPORTATION

SB 2435

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2435

House Transportation Committee

Conference Committee

Hearing Date March 11, 1999

Tape Number	Side A	Side B	Meter #
2	x		11.2-19.7
Committee Clerk Signature <i>J. J. J. J.</i>			

Minutes:

CHAIRMAN KEISER OPENED THE HEARING ON SB 2435; A BILL RELATING TO PROVIDING AN EXEMPTION FROM MOTOR VEHICLE OPERATOR'S LICENSE PROVISIONS FOR TRAIN CREW MEMBERS.

SENATOR JOEL HEITKAMP, Dist. 27, introduced SB 2435. He said that it deals with accidents involving cars, pickups, and trains. Currently a patrolman cannot ask the operator of a locomotive for their driver's license in cases of a train and car accident as it will then show up on their driving record. This bill will provide for a completely different license for locomotive operators.

SENATOR STAN LYSON, Dist.1, testified in support of SB 2435. Senator Lyson noted that as a former sheriff, he had not seen this very often - but that it was good for when it did occur. He

Page 2

House Transportation Committee

Bill/Resolution Number sb 2435

Hearing Date March 11, 1999

wanted to sign on to it but missed the deadline. This is simply another tool in training for the law enforcement. It has never been a law, rather is always overlooked.

Michael Muscha, Chairman, Brotherhood Of Locomotive Engineers, testified in support of SB 2435. (See written Testimony).

JOHN RISCH, United Transportation Union, testified in support of SB 2435. (See written testimony).

REP. MEYER asked if a blood or breath test relating to alcohol is taken at the site of accidents.

JOHN said yes. Locomotive operators are subject to all of those same tests.

CHAIRMAN KEISER CLOSED THE HEARING ON SB 2435.

COMMITTEE ACTION

REP. KEMPENICH moved a DO PASS on SB 2435. REP. KELSCH seconded the motion. The motion carried.

ROLL CALL - 11 YEA, 0 NAE, 4 ABSENT AND NOT VOTING.

FLOOR ASSIGNMENT - REP. MEYER

Date: 3/11
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2425

House Transportation Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Rep Kempenich Seconded By Rep Kelson

Representatives	Yes	No	Representatives	Yes	No
Representative Keiser, Chair	✓		Representative Thorpe	✓	
Representative Mickelson, V. Ch.					
Representative Belter					
Representative Jensen	✓				
Representative Kelsch	✓				
Representative Kempenich	✓				
Representative Price	✓				
Representative Sveen	✓				
Representative Weisz	✓				
Representative Grumbo	✓				
Representative Lemieux	✓				
Representative Mahoney					
Representative Meyer	✓				
Representative Schmidt					

Total (Yes) 11 No 0

Absent 4

Floor Assignment Rep. Meyer

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

REPORT OF STANDING COMMITTEE (410)
March 11, 1999 1:08 p.m.

Module No: HR-44-4537
Carrier: Meyer
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2435: Transportation Committee (Rep. Keiser, Chairman) recommends DO PASS
(11 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). SB 2435 was placed on the
Fourteenth order on the calendar.

1999 TESTIMONY

SB 2435

united transportation union



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JOHN RISCH
Legislative Director
DAKOTA LEGISLATIVE BOARD

Testimony of John Risch
Before the Senate Committee on
Transportation
In Support of
House Bill 2435
February 5, 1999

Mr. Chairman and members of the committee, my name is John Risch. I am the North Dakota Legislative Director of the United Transportation Union. The UTU is the largest rail labor union in North America. Our membership includes conductors, engineers, switchmen, trainmen and yardmasters.

We support SB2435 because it will help prevent inaccurate reports from being entered into the driving records of train crews members.

When a Highway Patrolman or other peace officer investigates a train/car accident and enters a state motor vehicle driver's licence number onto an accident report, it sometimes causes problems with a train crew member's state driving record.

This occurred to Don Chesely one of our Enderlin members.

While operating a train east of Lisbon, an automobile struck the side of his train at the Highway 27 intersection. The patrolman, who investigated the accident entered Don's drivers licence number on the accident report. A week or so later Don was sent a letter by the DOT informing him that his North Dakota motor vehicle licence had been revoked and that he was to mail in his drivers licence to the DOT.

The records had shown that he had failed to report an accident he was involved in. The accident of course was the crossing incident at highway 27. While Don did get things cleared up, the story describes some of the problems created when you interchange the two licences.

Train crews have a good history of fully cooperating with law enforcement after crossing accidents. We are instructed by the railroads we work for to cooperate fully in that regard. This bill in no way jeopardizes that record of full cooperation.

What this bill attempts to do is protect train crew members' personal drivers records after crossing accidents.

While a railroad engineer does need a engineer's licence to operate a locomotive he does not need a state motor vehicle driver's licence. The two are different and need to be kept separate.

This is why we urge a "DO PASS" on House Bill 2435.

Brotherhood of Locomotive Engineers North Dakota State Legislative Board

MICHAEL R. MUSCHA — CHAIRMAN - DIV. 671-S00

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Testimony of Mike Muscha
Before the Senate Committee on
Transportation
In Support of
Senate Bill 2435
February 5, 1999

Mr. Chairman and members of the committee, my name is Mike Muscha. I am the North Dakota Legislative Chairman of the Brotherhood of Locomotive Engineers, representing locomotive engineers across the state of North Dakota.

I'm here today to explain what can happen when a train crew is involved in a train/car or pedestrian accident.

This can be a traumatic experience for the engineer and conductor, especially if a person is seriously hurt or killed. I should know it has happened to me.

During this state of duress, the train crew and sometimes the investigating officer do not tend to think in the clearest state.

These accidents require the investigating officer to make an accident report and he needs information from the train crew. We don't object to that and we will cooperate to the fullest with the officer in providing our full name, address, date of birth, physical description, etc.

We do however object to giving the officer our motor vehicle drivers licence. We object because if the officer puts our driver's licence number on the accident report, when that report is processed, it could find its way into the records of the North Dakota Department of Motor Vehicles.

If a crew member's driver's licence number is included on the report it would likely be counted against your driving record. This information in turn is reported to your insurance company eventually, possibly effecting your rates or even disqualifying a person from coverage.

Crossing accidents happen night and day and in all areas of the state. The investigating officer could be a Highway Patrolman, County Sheriff, Local Police, or Tribal Police.

If this law is enacted, we would have the law printed on a card and ask our members to carry it in their possession like we do our Locomotive Engineers Certificate. We would in turn show this law rather give up our drivers license.

The state of Texas passed this law in 1991. California also has passed this law.

In the fatality I was involved in the investigating officer was from the Highway Patrol. He did a very professional job, and did not ask me for my drivers license. He also asked me if I was ok and told me there was nothing I could have done different. The next time, different place, different officer, maybe the questioning will be different.

I urge the committee members to recommend a "DO PASS" on House bill 2435. Help us make it simpler at the time of a very traumatic experience.

Thank you,

Mike Muscha

Mike Muscha, Chairman
North Dakota Legislative Board