

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

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ROLL NUMBER

DESCRIPTION

1173

2001 HOUSE TRANSPORTATION

HB 1173

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1173

House Transportation Committee

Conference Committee

Hearing Date January 18, 2001

Tape Number	Side A	Side B	Meter #
1	X		92
Committee Clerk Signature <i>Quenna L. Zink</i>			

Minutes: Rep. Weisz - Chairman opened the hearing on HB Bill 1173; A BILL for an Act to amend and reenact section 39-08-1.3 of the North Dakota Century Code, relating to driving under the influence of intoxicating liquor repeat offenders.

Keith Magnusson, Director, Office of Driver and Vehicle Services, North Dakota Department of Transportation appeared to explain and to speak for HB 1173, a DOT sponsored bill. A copy of Mr. Magnusson's written testimony is attached.

Rep. Weisz - Chairman (1245) If the court orders impoundment are they still required to install this device after impoundment?

Keith Magnusson: Yes, the court may want to order all of these sanctions.

Rep. Kelsch: I don't understand the difference between these devices -- the National and the Guardian say to breathe into them -- and then they mention codes to be entered into it, what is there to stop them from telling someone else how to do it? Obviously, you've got family members who know how to use it.

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Keith Magnusson: That is why we are trying to get them in is to explain and to demonstrate this equipment. We have their brochures and there are other companies besides these who manufacture this type of equipment.

Rep. Kelsch: (1450) My concern with this is the maybe it will give people a false sense of security because these devices are installed yet these drivers will work around these devices and still be driving on the our roads.

Keith Magnusson: You are correct that these devices may give a sense of a cure all. There is no magic bullet for some of these repeat offenders. However we may help those who are not so hardened as repeat offenders.

Rep. Pollert - Vice Chairman: (1605) What about the scenario of a business or a farmer who has an employee who has an interlock device on his personal vehicle and gets a ride to work. At work he then drives the business or the farmers other vehicles. Is there a liability question there for the business or the farmer?

Keith Magnusson: In those situations, I don't think it would be any different that now -- if an employee had his license suspended and he drove the company vehicle -- I am sure that the company insurer would want to know who is driving those vehicles. They would be concerned to know what kind of driving record those employees have. There wouldn't have to be an interlock on that company vehicle.

Rep. Carlson: (1709) You speak to the cost to being \$2 - \$3 per day , which would be in the range of \$60 to \$90 per month per vehicle. I think the experience has been that the type of people involved in repeat offense are those who don't have any extra money. So if he decides after several months he decides not pay and drives -- do we take it out of his car?

Keith Magnusson: I don't think the company is going to install these thing without one months deposit up front. Also if you notice they have to come back periodically to have these devices checked because these is a computer thing in these that can be read. It will tell whether the device has been tampered with or if there was some wrong. I wish that we had representatives of these companies here to describe this a lot better.

Rep. Carlson: Once again the Federal government holds us hostage over this issue and they will take away your money if you don't do it. Do you have any statistics, and I think you do, that no matter what we do to these repeat offenders, are going to end up in some type of vehicle and driving.

Keith Magnusson: I know we don't have anything for North Dakota. I don't know what there is nationally. I know that one of the things they are hoping is that this will help want to get their licenses back. It is on tool that may help some people go straight. Yes , it is a Federal mandate and that is why we are here. However, I would ask that you also look at the safety aspects of this.

Rep. Weisz - Chairman (1985) If someone just decides not to get the interlock device for six months or a year, does the requirement go beyond that then? Or if he does install at six months, what happens then?

Keith Magnusson: Obviously he won't get his license back and we will inform the court. He could be held in contempt of court. The court could extend that -- it would be up to the court. The courts have to work with us on this -- they have the authority to do this now. If they were doing this all across the country we wouldn't have this mandate.

Rep. Dosch: (2058) Do we know at what level of alcohol limit these are set at? Above or below breathalyzer limits?

Keith Magnusson: These can be set at different levels, so I don't see a problem for the courts or where they are set. I don't think any judge would set a level or that we should have a statewide standard because we would want it set at a much lower level than legal intoxication. Most of these offenders as ordered by the court not to drink at all.

Rep. Doseh: (2223) As for the seizure and subsequent sale of the vehicle, is there any other guidelines -- can a vehicle be sold after the second offense? How does that work, are there any guidelines?

Keith Magnusson: That is the law right now. The judge can have a vehicle seized, impounded, kept for awhile to maybe help this person keep from drinking and driving. They can order it sold. That law has been there a long time.

Rep. Mahoney: (2332) I, too was wondering about the tolerance levels, is there nothing in the federal law that requires a .02 or .04 tolerance level ?

Keith Magnusson: No and they didn't put any in the regs. They left that up to the States. We could that in the law, our regs or leave it up the courts.

Rep. Mahoney: It is not in this bill, are you assuming that you would do that administratively?

Keith Magnusson: I would think we would look to the judges and see what they say. If they would like to have the discretion. I would like to see it that way. They could worked it on an individual case by case basis. If they don't want it, then I think we would do it administratively.

Rep. Mahoney: When this applies to the vehicles with their names on --how about the snow mobile out there-- or other vehicles you might have in a corporate name -- they would not apply? So if a person had their vehicles in their business' name or your company' name, they could pretty much circumvent this law?

Keith Magnusson: That is correct. The Feds do address this in their comments on the final regs. The Congress, when they wrote the law did not leave very much room for the rules writers they were very specific. They were very clear that this law did not apply to commercial vehicles. So I believe that a sole proprietorship could qualify as a business entity and not come under this law. Regulators say that is the States want to change that they could be more stringent. In this bill draft we put in the minimum the federal required.

Rep. Carlson: (2565) You mentioned that these fund have transferred into the safety fund -- could you explain how that works? What the safety fund you are talking about is?

Keith Magnusson: I have Judy Froseth here who can give you more details about that than I can but the safety fund is basically traffic safety. Those are moneys we normally get from NHTSA. Congress appropriates and each states gets so much according to what their laws are, what we have complied with, and goals we have met, etc. Generally those funds may come from different pots of Federal money -- some may be used on alcohol programs, some may be just on seat belts or some general. In this instance they have said it will come out of construction funds. In this case it can be used for drunk driving, DUI programs, etc. but it can also be used to mitigate highway hazards.

Rep. Mahoney: How much is that ?

Judy Froseth: (2770) I am the Safety Program Director for the DOT. The amount that was transferred was about \$ 1.8 million and there are certain restrictions on that. How that works is the Governors safety representative in the state and the Director of Transportation, which in North Dakota is one and the same person then has the responsibility to determine what per cent goes into the alcohol program and what per cent goes into the hazard mitigation. This past year

about 85% went into the hazard elimination program and 15 per cent or about \$273 went into the alcohol counter measures. We are contemplating an alcohol assesment where we a planning something for in car video cameras for law enforcement and then we have given the opportunity to the Highway Patrol to purchase some cameras for a pilot project this year.

Rep. Mahoney: An how is that account in total in a biennium? How many dollars do you have to work with?

Judy Froseth: We have just over \$1 million of regulars 402 Traffic Safety projects; but there are other incentive programs that we can apply for -- for example we have just under \$300 thousand in alcohol incentive programs; we have another section 157 funding which we receive about \$500 thousand for safety belt enforcement and public information.

Rep. Mahoney: How much in safety funds did you have in the last biennium?

Judy Froseth: For the combined total, somewhere about \$3 million. If you would like we could get you a more refined figure.

Rep. Weisz - Chairman (3070) To follow up a little bit on Rep. Mahoney's question as just what type of vehicles fall under this, if a vehicle is jointly registered in two names that vehicle would still need an interlock device?

Keith Magnusson: Yes it would as long as the offenders name is on it.

Rep. Weisz - Chairman and it is your feeling that farm vehicles would be exempt?

Keith Magnusson: We are hoping that farm vehicles would be exempted as commercial vehicles.

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Rep. Ruby; (3220) It is shown in the law that the courts can already require this when they deem necessary. Why don't they run some kind of test to see if this works so that when it is mandated like we would know that it works?

Keith Magnusson: I don't know why they have because they have had these laws for years. We have encouraged the judges to use them.

Rep. Carlson; (3358) Can we just verify that the 85% can go to hazards is that statutory? Is that written in the law by the Feds? Is that money we can pull back out -- is that a hard and fast number?

Keith Magnusson: No, the Feds encourage you to use as much as you can on the alcohol counter measures so we did some; but no you could transfer 100% but to hazard eliminations. If you can identify the projects that will qualify, I do want to be up front on that.

Rep. Schmidt; Is there is an alternative?

Keith Magnusson: We don't loose any funds but unless you can go Congress and change it there is no way around this.

Rep. Schmidt; Do all the States have to do this?

Keith Magnusson: Yes and as of October 1st about half of the States have done.

There were no others appearing in support of HB 1173:

APPEARING IN OPPOSITION TO HB 1173:

Steve Rahn: a private citizen from Mandan, ND. I am a recovering alcoholic. Apparently the court system already has action in place. Has the committee even thought of we are going to loose \$3 million. U. S. constitution garantees us freedom from unreasonable search and seizure.

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That is not only placed on you, Mr. Welsz -- (but) your wife, because you got a DUI. Where does this money go for the rentals? To the manufacturer of the device or does it go to the State? There are so many hidden things going on in this bill. These items should be addressed first before this is approved. That is all I have.

There being no further testimony for or against HB 1173, Chairman Welsz closed the hearing on testimony.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1173 B

House Transportation Committee

Conference Committee

Hearing Date February 15 , 2001

Tape Number	Side A	Side B	Meter #
1		x	1,013
			End 4198
Committee Clerk Signature <i>Lauren B. Fird</i>			

Minutes: Rep. Weisz - Chairman opened the discussion for action on HB 1073.

Rep. Weisz - Chairman : This is our "interlock" bill.

Rep. Thorpe: I move a 'Do not Pass'.

Motion died for lack of a second.

Rep. Thorpe: (1073) The reason I made that motion is that I don't think and people I have visited with don't think that this is really going to do anything in the way of DUF's. The people who are habitual will drive anyway -- they always do.

Rep. Weisz - Chairman (1142) I don't want to disagree with you but there are \$3 million of highway construction funds from the Fed's at stake here.

Looking at my notes here it appears that we were supposed to be in compliance last October.

Rep. Kelsch: (1220) They are taken from the highway construction funds and put into safety programs.

