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10/3/03  
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1263

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1263

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1/27/03

Tape Number	Side A	Side B	Meter #
2	x		0.00-18.7
4	x		12.0-14.0
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: Chairman Kelsner opened the hearing on HB 1263.

Rep. Frank Wald, District 37, introduced this bill which deals with comparative negligence. For the record, he submitted copies of a letter he wrote to the Attorney General and the Attorney General's reply. (See attached)

Rep. Kasper: Please clarify what this bill will do.

Rep. Wald: The bill will, hopefully, correct so that if you have an accident in which only two parties are involved and the damage is under \$5000, the party most at fault pays the total bill.

Rep. Wald introduced Charles Johnson, General Counsel of the North Dakota Insurance Dept. who offered favorable testimony in support of HB 1263. (See attached)

Rep. Froseth: Who determines the percentage of fault? Is it on the police report?

Johnson: It's a matter of judgment, based on the adjusters and insurance companies. They make their decision based on police reports, the facts, there is no one person who makes the call.

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House Industry, Business and Labor Committee

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**Rep. Froseth:** Where is the binding effect of that percentage of fault? The insurance companies report?

**Johnson:** It becomes binding when two insurance companies are involved, if they agree. If they are not in agreement, they can go to arbitration. Ultimately, it can go to court.

**Rep. Nottestad:** So in the case when you'd have to subrogate your own insurance company and they deal with the other insurance company, how does that work?

**Johnson:** The companies negotiate between themselves. We are trying to eliminate disputes.

**Rep. Kasper:** What happens when a policyholder disputes a decision?

**Johnson:** I don't believe so, the insurance companies make the decision.

**Chairman Keiser:** If two persons are involved in an accident, it's defined as two persons, regardless of what else happened along the way. If the amount is under \$5000, then it gets paid by the person who is most at fault, 51% or more. What the language of the bill also does is say that with 51% or more at fault, the property damage less than \$5000 will be paid automatically but health issues are exempt from this section of the code.

**Johnson:** That's correct.

**Chairman Keiser:** And if an innocent third party is involved, they will be exempted and can come back and sue or get a reaction from the two insurance companies, based on accountability of responsibility.

**Johnson:** That third person should be able to recover 100% of their damages against the person who is most at fault up to \$5000.

**Chairman Keiser:** And if the person most at fault is uninsured? Would the person 49% at fault be liable?

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House Industry, Business and Labor Committee  
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Hearing Date 1/27/03

**Johnson:** Then that third person doesn't recover. If you'd rather see a prorated situation, the language in the last paragraph should be modified or struck.

**Kent Olson**, Executive Director of the ND Professional Insurance Agent's Association, testified in support of HB 1263. What is changing in the statute is the definition of a person, dealing with property damage. This bill clarifies those situations where a play on words can affect the settlement of a claim.

**Pat Ward**, representing State Farm Insurance, offered testimony in support of HB 1263 and suggested some amendments. (See attached) He stated that the exemption from fault is not always fair. These amendments are ostensibly housekeeping items.

**Rep. Wald:** Occasionally the adjuster representing the company most at fault, if they know you are not carrying collision insurance, there's no subrogation available to you. That's when they say, "Well, you're 30% at fault so you are on your own". That's the abuse that happened, OK?

As there was no one else present who wished to testify in opposition to HB 1263, the hearing was closed.

Prior to the scheduled afternoon hearings, Chairman Keiser called for committee work on HB 1263. Rep. Tieman is favorably disposed to Mr. Ward's suggested amendments that clarifies the intent of the legislation, specifically the physical property and however personal damages are not available.

**Rep. Froseth** moved to adopt the amendments. **Rep. Ekstrom** seconded the motion.

**Chairman Keiser** stated that he has difficulty with the third party injury aspect of this bill and cannot support the bill unless those third party injuries are prorated. Innocent third party would be negatively impacted. **Rep. Dosch** stated that it's likely that there will be instances when

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House Industry, Business and Labor Committee  
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Hearing Date 1/27/03

parties are found equally liable for damages. He suggested that further amending ought to be done in order to make this tighter, perhaps deleting lines 19-22.

Rep. Tieman will draft these suggestions into the amendment before the committee takes further action on this bill. A voice vote carried the motion to adopt the proposed amendments.

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1263

House Industry, Business and Labor Committee

Conference Committee

Hearing Date January 28, 2003

Tape Number	Side A	Side B	Meter #
3	X		3,995-4545

Committee Clerk Signature *Elizabeth R. Fin*

Minutes: **CHAIR KEISER:** Opened committee work on 1263. Rep. Tieman is carrying the bill. Rep. Tieman reviewed the amendments. Chair Keiser reminded the committee that in order to reach the intended end, lines 19-22 would need to be deleted.

Rep. Klein moved to amend (both the amendments from Rep. Tieman and the deletion of lines 19-22). 2nd by Rep. Severson. Voice vote. Amendments adopted. No discussion.

Rep. Nottestad moved DO PASS AS AMENDED. 2nd by Klein.

**VOTE: 14 YES 0 NO 0 ABSENT**

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1263

House Industry, Business and Labor Committee

Conference Committee

Hearing Date February 11, 2003

Tape Number	Side A	Side B	Meter #
2		X	490-800

Committee Clerk Signature *Elizabeth Pfeiffer*

Minutes: Chair Keiser: Opened discussion on 1263.

Rep. Severson moved to reconsider HB 1263. Seconded by Rep. Boe. Voice vote. Motion carries.

Rep. Tieman: Restated amendment to delete lines 20-23.

Rep. Klein moved to adopt amendment. 2nd by Rep. Tieman. Voice vote. Amendment adopted.

Rep. Nottestad moved to recommend DP as amended. Seconded by Rep. Tieman.

Vote: 14 Yes 0 No 0 Absent and not voting. Carrier: Tieman



