

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1195

2007 HOUSE NATURAL RESOURCES

HB 1195

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1195

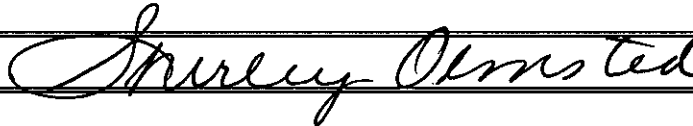
House Natural Resources Committee

Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: 1870

Committee Clerk Signature



Minutes:

Chairman Porter opened the hearing on HB 1195.

Representative Larry Klemin presented HB 1195. The hunting and fishing license currently requires the license holder to record their social security number. He passed out a copy of the application for a 2006-2007 ND resident license for fishing, hunting, and a furbearer certificate. See document marked at Item #1. These licenses are sold at several places including online, from Game and Fish, by telephone, and from many local businesses. These are all secure with the exception of those purchased through the local businesses. The problem is that the majority of the licenses sold in paper form simply are not secure. There is the potential for identify theft. The dilemma that we have is that in the 1990's a federal law was passed requiring the social security number on certain types of licenses, including this license. As part of the state program for child support and in order to receive federal funds for this, the state is required to comply with this. Millions and millions of dollars are stolen each year as a result of identify theft. They originally thought they could allow the driver's license number to be used in place of the social security number. The federal law that proposed this mandate relating to child support does have some language which would allow some exceptions. He thinks there is some room for interpretation as to how to do this. In order to get a driver's license, you must

produce your social security license for the Department of Transportation. The Department of Transportation would then have to keep your social security number confidential. They had hoped the Social Services could then get the number from DOT rather than Game and Fish. He has since talked to Social Services Office and Attorney General's Office and they have conferred with Game and Fish. They have come up with another possible solution which is the amendment attached. It keeps the existing law that we have but would add some language at the end. This language states that the paper book would have the social security number on the original copy but would not appear on the duplicate copy, making the book copy more secure. This would not take place until January 2008 so that the 2007 books already printed by Game and Fish would not have to be reprinted. The original with the social security number on it would be given back to the applicant. It seems like a simple solution to this dilemma and will keep us in compliance with the federal laws in place.

Representative Damschen asked that if the only place the social security number would be present is on the original license.

Representative Klemin said that is correct. The Game and Fish currently does a sort on the social security number, but in the future they would sort on the name and birthday to get that same information.

Representative Hanson asked what would be the difference between this bill and the senate bill.

Representative Klemin said the difference would be the amendment and the senate bill actually provides the exact opposite of this bill.

Representative DeKrey asked if Game and Fish was required to collect the social security numbers for Social Services. If so, the copy going back to them would not have this information on it, and how would they get this information.

Representative Klemin said that was because they didn't have to sort on the social security number. They could get this information from the name and birth date. The Game and Fish will have this information if they have received a license before. Having the social security number available puts a lot of people at risk that do not pay child support.

Representative Meyer asked what would be the cost to convert these forms.

Representative Klemin said there would be no additional cost because it will not start until January 2008 when the new books would be printed anyway.

Representative Drovdal asked if there had been any cases where the social security number has been taken from the license.

Representative Klemin said he didn't specifically know of any cases however there are a lot of situations in North Dakota where a person has had their identity stolen. We are not sure how they got the information.

Representative Charging said that the Attorney General's Office has been trying to education people about not giving out this information. Is there a law where they can accept the driver's license number instead?

Representative Klemin said there is mandated federal law requiring the social security number to be on these types of licenses. We are looking for a way to do that and still meet the mandated federal law and protect the identity of our citizens.

Representative Nottestad asked how this bill would handle those sold on the internet or by telephone.

Representative Klemin said it would not affect them at all. It only relates to those sold on paper. They still have to provide this information, but Game and Fish is required by law to keep this information confidential. The problem is what is left behind on the paper copy. This is not secure.

Representative Damschen asked if Game and Fish were considered a public servant and required to keep this information confidential.

Representative Klemin said yes.

Senator O'Connell came forward in support. He has received a number of telephone calls asking to get this changed. He feels that this would help with identify theft and protect our citizens.

Mr. Quentin Wangler came forward in HB 1195. He asked Representative Klemin to introduce this bill. The purpose of the bill is to protect people from potential identify theft. He made reference to how easy it is for identify theft to happen and how difficult it is to get it stopped. It takes years to get your record back. He told of some observations he had made around the state. He travels the state weekly and has found some places where they couldn't even find the book in the building. This shows how easy it would be to get that information. The current law is very vague as to how these books are handled and whether the store actually requires the social security number. There is no set time when these books have to be turned in. Currently these books go to the county auditor and they may not get to Game and Fish for quite some time. Game and Fish saves these books for two years. The perfect bill would be to go to the federal government for an exemption but this would take years. He asked Game and Fish if they received the book without the social security number would they prosecute. They indicated they would not. One store location in Ellendale still had 5 months of completed books lying in their store. This bill is a compromise and I encourage a do pass.

Representative Hanson asked if all licenses should be over the internet or over the phone.

Mr. Wangler said he buys his over the internet but small towns need the books and people need to have access to buy at the local level.

Representative Meyer asked about the process when these books are full. How long do they have to turn these books in? Do they have to be hand delivered to the auditor or can they be mailed to the auditors?

Mr. Wangler deferred this question to the Game and Fish. His concern is for identity theft. He questioned how the Game and Fish could even track this person when the person was done hunting and the books were still not turned in. How could they track this person if they were behind on child support?

Representative Charging said the one thing they could do is a resolution through this committee. She thought this bill was a bit crafty.

Mr. Wangler said he thought they were creating a way to keep the federal government and him happy.

Mr. Jim Fleming, Deputy Director and General Counsel of the Child Support Enforcement Division of the Department of Human Services, came forward in support of HB 1195. See attached written testimony marked as Item #2. He said the electronic applications would be the best, but they are trying to make a compromise and still meet the federal mandates. The state would have tremendous fines if they did not comply. This is a solution that reduces misuse of this social security number. Their computer communicates with Game and Fish Department on a daily basis. As these people apply for the license and Game and Fish has their social security marked as being on the list from Social Services, they will not be granted a license. If all licenses were issued electronically, this would eliminate the problem. We are dealing with paper licenses today. If a person applies for a paper license, that number is not compared to the list at Game and Fish. There is no data input by Game and Fish when these paper licenses are returned to their department. His department does not rely on Game and Fish to get the social security number. If these people are on their list, they already have their

social security number in their data base. They realize that the information is being collected and is not being used by Game and Fish. The federal mandate says we have to have this on the application. Whether or not you use it is not what the feds are looking at. When the feds ask if we are recording that information on the application, we need to be able to look them in the eye and say yes to that question. If the person leaves with his copy of the application and that is the only place that information is recorded, yes, it is a little crafty. We are trying to support a compromise that will significantly reduce the possibility of identity theft. We would be comfortable if you passed the bill as amended. There would be some very big fines if we can't guarantee federal compliance on this. The senate bill is SB 2198 and was heard this morning. It is my understanding that they are willing to hold their bill and let this committee take the lead on what they feel should be done with this bill.

Representative Drovdal said he was still confused about the social security number and the driver's license number. He said he knows that when you apply for a driver's license, you must show you social security number, but that number does not appear on your driver's license. Now we are saying that with the amendment the person applying for the license will leave with the only copy that contains the social security number. The copy going into the state doesn't have it. Now that is just the opposite of what we have done in the driver's license. I don't see why one complies and the other doesn't.

Mr. Fleming said that it is a different approach to the same mandate. The mandate is whether you are getting the social security number on the application. In both of those cases, the answer is yes. With the driver's license, you are getting the license from the agency yourself. In the case of the recreational licenses that are only on the paper application, this is in the hands of a third party and that is why there is a different approach.

Representative Keiser asked if this amended bill had been run past the regional office.

Have they approved it?

Mr. Fleming indicated that they had not.

Representative Keiser asked why not.

Mr. Fleming said that at this time they are willing to stand by the amendment and if that becomes law and say that we are still collecting that on the applications. We felt it would have the potential of undermining our compromise if we were to bring this to the federal government's attention. We are not sure that it would not change the requirements on the way the paper applications are handled today.

Representative Keiser said that when we are talking about numbers with lots of zeroes and we are talking about the big dog that does win the battle. I think it is irresponsible that you have not run this up the flag pole and have them respond.

Mr. Fleming said they are not trying to be irresponsible.

Representative Charging asked what the other states doing.

Mr. Fleming said other states are requiring it on their applications. There are states that are now starting to get exemptions. Recently South Dakota tried to go with the last 4 digits of the social security number and it was granted. To get the exemption, you would have to show what kind of match substitute you would put in place for these documents. We would have to confess that we are not using the paper copies now. We could have compliance issues with the vendor's not turning in the books on time. If it is the wish of this committee that we should run this past the feds, then we would honor that request.

Representative Charging said that she agrees with Representative Keiser. We need to be sure that we are doing the right thing. If I were a dead beat Mom, all I would have to know is I fill out a paper application at the bait shop and I am good to hunt and fish.

Mr. Fleming said we definitely do not call them dead beats, because most pay on time. You are absolutely right and we hope there is not a front page story about this tomorrow.

Electronic filing would be great, but it does have the ripple affect on the way people are getting their applications. We are trying to be sensitive to that. If the committee decides they want us to contact the feds about the bill, please let us know.

Representative Keiser said that part of the public record of today will be that the question was asked.

Mr. Fleming said he would want to go on record as saying they feel that they are in compliance with this and we do not feel that we do not need to go before the feds. They are willing to say that they feel that they are in compliance with the amended bill. He will not guarantee an outcome. At the end of every session, they update the feds on all laws passed and we answer the questions. When they ask if we are requiring the social security number to be on the application, they will answer yes to that question. They are willing to give that answer to the feds and hope that is an acceptable answer.

Mr. Parrell Grossman, Director of Consumer Protection and Antitrust Division of the Office of the Attorney General gave testimony. See attached written testimony marked as Item #3.

Chairman Porter asked for any opposition to HB 1195.

John Valempter opposed this bill. He feels that it is identity theft when he cannot use his own social security number. He feels that the only way he can identify himself is by his social security number.

Foster Hager from the Cass County Wildlife Club who oppose this bill. They are not against moving the social security number, but what do we do with the 12 and 13 year old and the only identification they have is their social security number. An amendment to this would be to allow them to use their hunter safety education number.

Mr. Dennis Daniel said a suggestion would be that any vendor who sells licenses has to be computerized and hooked up to the Game and Fish. This would eliminate 90% of the problems. He too is concerned about identify theft.

The hearing on HB 1195 was closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1195

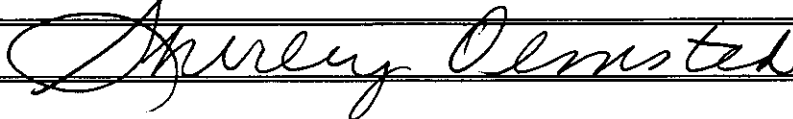
House Natural Resources Committee

Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: 1981 (HB 1195 at 13:54)

Committee Clerk Signature



Minutes:

Chairman Porter opened the discussion on HB 1195.

Representative DeKrey made a motion to move the Klemin amendment.

Representative Hanson seconded the motion.

Representative Meyer asked if they were planning on getting an opinion on this.

Representative Keiser said that he did not think that they would need one because it puts the default clause in the bill. If the feds rule that this is acceptable then it reverts to the old law.

Chairman Porter took a voice vote. Let the record show that the motion carried.

Representative DeKrey made a motion for a do pass as amended.

Representative Hofstad seconded the motion.

Representative Keiser said he knew there had been a lot of discussion but this bill still does not work. The language says the duplicate copy and the duplicate copy means a duplicate copy. You are going to have to prescribe that they do a two-part form one of which does not transfer through but what someone is going to go and fill it out and then go to a copy machine and make a duplicate copy and they are not going to take that social security number. This language that exists in the bill is not going to work.

Representative DeKrey said he did not agree. The books are already printed so when you go buy a license from a vendor and your local store, they are a two-piece deal. When the guy fills it out the only thing is they put a little cross stanch under the social security number so that when they tear it off and hand you your copy on their copy your social security number is not showing.

Representative Keiser said that is ok but it is not then a duplicate copy. I am just telling you what the language in the bill is as amended. It should say a duplicate copy with the exception of the social security number.

Representative Hanson said he thought not having the social security number on there means everything has to be done by telephone or the internet.

Representative Charging said she thought it was wrong. I don't know how we can make it work.

Representative Keiser said you really need language that says rather than duplicate copy but that the social security number does not transfer through.

Chairman Porter said the language on page 1 only talks about the number only being on the original application which is the piece in the hunting license book that is torn out and given to the individual buying that license or certificate which it is at the time. Then further it should say that the original paper application must be returned to the applicant after the application is completed and a duplicate application has been retained by the person accepting the application.

Representative Keiser said that is the problem. You just said it better than I did.

Chairman Porter said he did not think that the committee would have any problem changing the language at point to say what you are trying to say.

Representative Keiser said the copy without the social security number will be retained by the person accepting the completed application.

Chairman Porter said if we said that half of the application is completed and the copy without a social security number must be retained by the person accepting the application.

Representative Keiser said there may be a better way to say it but that is the intent.

Chairman Porter asked the intern if he had that.

Representative Keiser said that Representative Charging had raised a good point when she said if you say it that way you are then in violation of the federal statute. In other words, what you are doing is in violation of the federal statute and what they tried to do was word it in a way that they would not be in violation.

Representative DeKrey said he still goes back to his statement that three attorneys sat down with the Game and Fish and came up with this wording.

Chairman Porter said that maybe we just need to be very strong with our intent to the North Dakota Game and Fish that on the yellow copy they put some x's across the portion of it where the social security number appears on the original so that it does not transfer through to the copy.

Representative Keiser said it can technically be done but the word duplicate means duplicate.

Chairman Porter said we have an amended bill before us with a do pass as amended.

Representative Hanson asked about the effective date.

Representative Nottestad said the effective date would not be until they specify as January 1, 2008.

Chairman Porter said that was the first part of the amendment.

Representative DeKrey said it still is not going to solve the problem for the people who do not want to give their social security number out. It will protect their identity, but it will not solve the part about the social security number.

Chairman Porter said it will help.

Representative Meyer asked if there was more than one amendment.

Chairman Porter said no.

Representative Charging said she agrees with Representative DeKrey and what we have before us is one solution. Is there anything we can do in committee to help game and fish find a long term fix? This is a short term fix.

Representative Hanson asked if we could have Jeff Nelson make some telephone calls to some of the states around us and find out what they are doing. Maybe they have come up with a solution to the problem.

Chairman Porter said that Representative Klemin did some of that checking with South Dakota, which was a state that applied for a wavier on the child support thing so there are some things that can be done.

Representative Meyer said that before we pass this out I think we have a lot of problems with the drafting of the whole bill. The game and fish will have the burden to have these books remade, especially when we do something as simple as getting a waiver.

Representative DeKrey said he thought the waiver was a long process.

Chairman Porter said that the technology is out there and it is truly an easy system to use and all it takes is an internet connection. Many of the stores already have that. I don't know that we need to create a program to get it out there because it is already getting out there. This will eventually become a non-issue.

Chairman Porter asked the clerk to call the roll on a **do pass as amended**. Let the record show that there were 4 yes, 9 no, with 1 absent. The motion failed.

Representative Keiser said that his big concern that when we first got into the arena of social security numbers on the hunting of license, the department of human services came in and said in no uncertain circumstances if we do not do this we will be in violation. Now we have an attorney that comes to me during the conversation and says we just don't want be blamed. They are kind of bending the rule. There is no question that they are circumventing the law in my opinion. They are playing a little game with wording. They may be following the letter but they are not following the intent of the law and that concerns me.

Representative Damschen said that he understood the reason for this was that they want the social security number for tracking the child support.

Representative Keiser said they were using the driver's license for access but when it was initially passed the rational was that they were going to collect the numbers.

Representative DeKrey said that we were going to take away their hunting privileges and then the feds came right behind making that mandatory for us to get our federal payments so in the next session we passed it.

Chairman Porter said that was correct. He asked if anyone wanted to do anymore work on

Representative DeKrey made a motion for a **do not pass**. There was a second by Representative Hofstad.

Chairman Porter asked the clerk to call the roll on a do not pass. Let the record show that there were 9 yes and 4 no with one absent. The motion prevailed.

Representative Charging will carry this bill to the floor.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1195

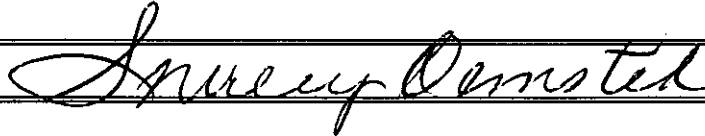
House Natural Resources Committee

Check here for Conference Committee

Hearing Date: February 8, 2007

Recorder Job Number: 3156

Committee Clerk Signature



Minutes:

Chairman Porter asked the committee to reconsider their actions on HB 1195.

Representative DeKrey made a motion to reconsider the action on HB 1195.

Representative Keiser seconded the motion.

Chairman Porter asked for discussion. Hearing none, a voice vote was taken and the motion prevailed.

Mr. Jim Fleming, Deputy Director and General Counsel of the Child Support Enforcement Division of the ND Department of Human Service came forward regarding HB 1195. As you might recall, this bill was introduced by Representative Klemin with other cosponsors to resolve the issue of paper licenses purchased, not from the Game and Fish Department directly, but from a third party vendor which is as with all hunting licenses mandated by the federal government to receive the social security number. This engrossed bill is back before you which proposes to capture the social security number on the original copy of the application and would walk out the door with the hunter. One other alternative that we had discussed with Representative Klemin when he sponsored the bill was the possibility of getting an exemption from the Federal Government that would allow for certain licenses to capture only the last 4 digits of the social security number. There is one type of license that really is an

issue here. It is the license that they call resident or non-resident fishing hunting or fur bearer's certificate. That is the only license that is the issue here. Those are the licenses that you get from the vendor and they go back to vendor and sit behind the counter or at the county auditor's office. This is the one license we are talking about here. The department is willing to seek an exemption from the federal government capturing only the last 4 digits instead of the nine. If that is a direction this committee is interested in pursuing, we have prepared amendments that would amend the engrossed bill to do three things. The first is to authorize the capture of the last 4 digits in lieu of all 9 digits. The second thing it would do is direct the department to seek that federal exemption and the third would be to make the first section the authority to capture the last four contingent effective when we certify to you that the federal government has granted us the exemption. South Dakota got an exemption for the use of a similar 4 digits plus date of birth so we are prepared to distribute that amendment.

Representative DeKrey asked if some of that language should include that if that exemption is forthcoming it has to be coordinated with the Game and Fish Department because they may already have the booklets printed up for next year when the exemption comes.

Mr. Nelson said you will see from the amendments that it continues the discussion with Game and Fish about being effective with the year 2008. The 2007 booklets are already printed. If this is passed, the Game and Fish would know to print the books with just the last 4 digits of the social security numbers are captured.

Chairman Porter asked Mr. Nelson to pass out the amendment.

Mr. Nelson said in terms of the fiscal affect, by applying only for the certificate, they do not anticipate a fiscal effect from Game and Fish for reprinting the application or from the Department seeking the exemption. It would not require our computer program to be reprogrammed so the fiscal effect on these amendments would be none.

Representative Keiser made a motion to accept the amendments.

Representative DeKrey seconded the motion.

Chairman Porter asked for discussion.

Representative Hanson said you might buy this license in April. How is that going to hold up or go to the Health Department to deny the license? The law is to deny the license if he is behind in child support. What if this is not turned in until December? He still has the license.

Chairman Porter said that is currently the case now and it changes nothing. I know that the big ticket items that Game and Fish and the Department really cross check are the lotteries. The chances of catching this individual during the season are very slim but it is a federal requirement.

Representative Meyer said she still thinks this is a poor bill. I don't see where we have had any problems with it and she does not know of any one case of identify theft that has ever been reported from a hunting and fishing license.

Representative Charging said she did some research on this as a carrier of the do not pass and there is a threat of a seventy five million dollar fine if we get caught in a gray area. There is no present day cost but there is the looming threat of seventy five million dollars. In two years from now there will be a cost to develop this book including printing, and Game and Fish may have come up with a better solution in two years and we are not that far away from the technology.

Representative Keiser said he was going to support the amendment and wanted to thank the department for their reconsideration of this engrossed bill. It is not a good solution but it is the best solution. It does one of two things. One is to protect the identify based on the social security number. Two is to meet the federal guidelines and to do that openly. We do not want to put ourselves in a position where they discover that we are circumventing the law and then

have them do an audit on the entire operations and find a bunch of other things that might not be correct. This is upfront and is taking all the reasonable approaches and I support it. He said the Game and Fish have the printing costs every year when the books are printed.

Chairman Porter asked for any further discussion.

Representative Keiser made a motion for a **do pass as amended on engrossed HB 1195**.

Representative DeKrey seconded the motion.

Chairman Porter asked for discussion. Hearing none, the clerk took the roll on a **do pass as amended on engrossed HB 1195**. Let the record show 10 yes, 3 no, with 1 absent.

Representative Clark will carry the bill to the floor.

FISCAL NOTE
Requested by Legislative Council
02/13/2007

Amendment to: Engrossed
 HB 1195

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill requires DHS to seek a federal exemption authorizing the use of the last 4 digits of a person's SSN, instead of all 9 digits, on applications for fishing, hunting, or fur-bearer certificates. If the exemption is granted, the bill applies to paper applications completed on or after 1-1-08.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The cost to the Game and Fish Department for the re-printing of forms is anticipated to be minimal. There is no impact to the Department of Human Services since the bill only becomes effective if a federal exemption is obtained.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Brenda M. Weisz	Agency:	DHS
Phone Number:	328-2397	Date Prepared:	02/13/2007

