

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1258

2007 HOUSE TRANSPORTATION

HB 1258

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1258

House Transportation Committee

Check here for Conference Committee

Hearing Date: 01-18-2007

Recorder Job Number: 1358

Committee Clerk Signature

*Lisa M Thomas*

Minutes:

**Chairman Weisz opened the hearing on HB 1258. All Representatives were present.**

**HB 1258 relates to tourist oriented directional signs.**

**Rep. Gulleson** introduced the bill.

**Rep. Gulleson:** This came to me through a constituent who will provide you with some additional background on this. The challenge is the ability to input some signage on major highways to be able to promote or advertise commercial businesses. Larry has a local gun supply business and he put up a sign on HWY 1, which is south of Valley City and he received a letter from the DOT that the sign did not meet the requirement for the tourist oriented direction sign which is part of the federal signage bill. What we found was that the federal bill does allow for states to create some policy and fit it to there own needs. Minnesota and South Dakota do allow a little bit of additional opportunity for local businesses to post some signs. So I asked the counsel to work with DOT and put together some language that would allow us to expand the definition under this section to create an opportunity for a business that drives a major portion of income for visitors or individuals who do not reside in the immediate area.

That would of course be the tourist oriented people. I am asking you to consider expanding

that definition a bit so that we can give an opportunity for our rural businesses to be able to market to the use of increase traffic.

**Rep. Weisz:** I assume this language is compliant with the federal law?

**Rep. Gulleson:** That is my understanding.

**Larry Jones** spoke in support of the bill.

**Jones:** I run a gun and sporting good business and the vast majority of my business is probably from fifty to one thousand miles away. I get a lot of people that come to my house; I tell them where my business is. I get a lot of people who come to my business who drive up and down the highway and have to call and ask me where I'm at. My business is not visible from the highway. I am not opposed to fees. What I am opposed to is not being able to advertise my business. Many people can't find my business because of where it's at. When I had the illegal sign up, I had many people that said they have gone down this highway and stopped to see my business because they saw my sign. I am a legally licensed business. I collect and pay state sales tax as well as federal, yet I can't advertise my business. I guess that's all I have to say.

**Rep. Kelsch:** Is the land that leads up to your business owned by you?

**Jones:** No, I do not.

**Rep. Kelsch:** And the land owners are not willing to let you have a sign?

**Jones:** Certainly. The land owners have no problem.

**Rep. Kelsch:** If you own the land and it's set back far enough, isn't there a way you can have a sign on your land, or is it totally prohibited?

**Jones:** Federal law states that you cannot advertise a commercial business within six hundred and fifty feet from the state right of way. The trees go along the road to my business. The sign that I had up is a professionally made sign. It doesn't look like junk in the highway.

**Rep. Ruby:** Where you in the right of way with your sign or where you just off?

**Jones:** At first I was in the right of way. I knew that when I put it up and thought I'd get by with it. That didn't work so I moved the sign out of the right of way.

**There were no further questions from the committee.**

**Bill Shalhoob**, Tourism Alliance Partnership spoke in support of the bill.

**Shalhoob:** This is a small step. Signs under the unification act, an owner of the land cannot put a sign on his own land, unless his land is owned commercially. That is the criteria of this. That works back east, but when we get into rural North Dakota, nobody is rushing to rezone their land just to put up a sign. The big problem is how we treat our guests and how to get them to come to North Dakota.

**There were no questions from the committee.**

**Nicki Weissman** of the North Dakota Hospitality Association spoke in support of the bill.

**Weissman:** I want to mention that we do support this bill. Anything that will promote tourism is in our business.

**There was no opposition to this bill. Chairman Weisz closed the hearing on the bill.**

**There was no action at this time.**

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1258

House Transportation Committee

Check here for Conference Committee

Hearing Date: 01-18-2007

Recorder Job Number: 1362

Committee Clerk Signature

*Russ M Thomas*

Minutes:

**Chairman Weisz allowed committee discussion on HB 1258. Rep. Kelsch was absent.**

**HB 1258 relates to tourist-oriented signs.**

**Rep. Thorpe:** This has been before us many times in this committee. Bill 1258, would it mess with the federal highway rights?

**Chairman Weisz:** The DOT did not indicate that there was interference. There is still a very narrow expansion.

**Rep. Ruby:** Initially, the concept of it, I don't have a problem with because I think they should be able to, but what I have a problem with is defining. Are we going to be doing an audit to find out a major portion of their income is from out of state?

**Rep. Dosch:** I believe that is one thing, when you look at the Cause Program, which this falls under, there are some stipulations that could be there when you are dealing with signs of this nature. I think its fine. My only problem with the bill is that it doesn't go nearly far enough. You have got to be able to advertise your business. We need to step up and start helping some of the people in the state, being able to advertise.

**Chairman Weisz:** I've got some in my district that are fifteen miles off of the highway and they can't put any sign up to direct someone how to get there and then we are trying to encourage economic development and growth of tourism and they can't put signage along the highway.

**Rep. Thorpe moved a DO PASS. Rep. Schmidt seconded.**

**Roll Call Vote: 12 yes. 0 no. 1 absent.**

**Carrier: Rep. Vigesaa**

Date: 1-18-07  
Roll Call Vote #: HB 1258

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. \_\_\_\_\_

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO Pass

Motion Made By Rep Thorpe Seconded By Rep Schmidt

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. Delmore	✓	
Vice Chairman Ruby	✓		Rep. Gruchalla	✓	
Rep. Dosch	✓		Rep. Myxter	✓	
Rep. Kelsch	A		Rep. Schmidt	✓	
Rep. Owens	✓		Rep. Thorpe	✓	
Rep. Price	✓				
Rep. Sukut	✓				
Rep. Vigesaa	✓				

Total Yes 12 No 0

Absent 1

Floor Assignment Rep Vigesaa

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



**REPORT OF STANDING COMMITTEE**

**HB 1258: Transportation Committee (Rep. Weisz, Chairman) recommends DO PASS**  
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1258 was placed on the  
Eleventh order on the calendar.

2007 SENATE TRANSPORTATION

HB 1258

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1258

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: March 9, 2007

Recorder Job Number: 4783

Committee Clerk Signature

*Jody Hauge*

**Senator Gary Lee** opened the hearing on HB 1258 relating to tourist-oriented directional signs. All six committee members were present.

**Representative Gulleason** introduced the bill and testified in support of HB 1258. She passed out testimony from Larry Jones an operator of a small business in southeastern ND. His written testimony is enclosed. HB 1258 adds a section to the "Tourist-oriented directional sign" of the century code. This would expand the law to a business that derives a major portion of income or visitors from individuals who do not reside in the immediate area of the business. This would allow a small business owner to post appropriate signage on the highway so they could attract customers to their small business. States around us have this type of exemption to the federal law that allows for the local tourist-oriented business.

**Senator Lee** asked if the issue was zoning.

**Rep. Gulleason** said no, not really.

**Bill Shalhoob**, Tourist Alliance Partnership, testified in support of HB 1258. He said this is a small step, it refers to the brown signs that you see as you drive up and down the highways. In 1964 the Lady Bird Johnson Beautification Act was passed that put very stringent requirements along our highway on signage. Unless you are in an area that is zoned commercial there is no signage allowed. In rural states like ND this is a problem. What the bill

does is a take a very limited number of businesses and allows them to put up a brown sign.

You can't be a franchise. It will affect very few businesses in ND but it will help some small businesses that are in rural areas. He thinks it is a good bill and a step in the right direction.

**Senator Potter** said he had heard that ND interprets the Lady Bird Beautification Act stricter than other states, particularly South Dakota. Are you aware of that?

**Bill** said he was not aware of that. He said it was the first time he had ever heard this.

**Senator Potter** said in the current law it talks about a local authority adopting ordinances. Is that strictly cities or can counties do this.

**Bill** said counties can do that and even incorporated Townships.

**Senator Potter** said a true Ag business like wheat weaving could have signs?

**Bill** said not unless this bill is passed. At this time, that business can't put up a sign even on their own land. At this time the real problem is the commercial designation of the property that the sign is going to go on.

**Senator Andrist** said he liked the bill and wondered if it could even be wider. He asked if his group was active in promoting these types of signs?

**Bill** said the only thing we have done is if people have problems we direct them to the DOT to resolve the problems. We've not been involved except in supporting this bill.

**Senator Andrist** said that he hoped their group will pursue this area to broaden it. It has great economic potential.

**Bill** said that they would look at it and get it on the agenda.

**Senator Lee** said the big brown signs on interstate have restriction on how far apart they are, does this bill have any limits on number of signs?

**Bill** said that he would assume it does.

**Senator Potter** asked if they would accept an amendment to take out the portion that you can't put a logo on signs.

**Rep. Gulleson** said that they would like to keep the bill going. There is a section in the Federal Law that allows for state policy. Minnesota and SD had expanded in a number of ways including this one.

**Senator Bakke** wondered why they didn't put an emergency clause on this.

**Rep. Gulleson** said good question. She said when she drafted the bill she didn't think of it.

**Sara Coleman**, Dept. of Commerce testified in support of HB 1258.

**Mike Rud** representing the NDPMA testified in support of HB 1258.

No opposing testimony.

**Brad Dar**, Maintenance Engineer DOT

**Senator Lee** asked who determines where and how they get place.

**Brad** said that there is an application process to the DOT and once we get the application our engineers go out and look and then if approved the sign has to be commercially installed.

**Senator Potter** asked if the application of law was the same in ND as SD and Mn.

**Brad** said he was not aware of different applications of the law.

**Senator Fiebiger** said that we have heard the problems of Mr. Jones, will this bill satisfy his needs.

**Brad** said he believed so.

**Senator Andrist** asked if berry signs are legal.

**Brad** said with the bill it will be legal.

**Senator Lee** closed the hearing on HB 1258.

**Senator Bakke** moved the amendment to add an emergency clause.

**Senator Andrist** seconded the motion.

The clerk called the roll 5-1-0.

**Senator Andrist** moved a Do Pass as amended.

**Senator Bakke** seconded the motion.

The clerk called the roll 6-0-0.

**Senator Andrist** will carry the bill.

*JB*  
3-9-7

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1258

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

Page 2, after line 16, insert:

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

Renumber accordingly

Date: 3-9-07  
Roll Call Vote #: /

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1258

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number Amendment - Emergency Clause

Action Taken Do Pass

Motion Made By Senator Bakke Seconded By Senator Andrist

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator JoNell Bakke	✓	
V Ch John Andrist	✓		Senator Tom Fiebiger	✓	
Senator Dave Nething	✓	✓	Senator Tracy Potter	✓	

Total (Yes) 5 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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



Date: 3-9  
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. # 6 1258

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as amended

Motion Made By Senator Andrist Seconded By Senator Bakke

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator JoNell Bakke	✓	
V Ch John Andrist	✓		Senator Tom Fiebiger	✓	
Senator Dave Nething	✓		Senator Tracy Potter	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Andrist

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

**REPORT OF STANDING COMMITTEE**

**HB 1258: Transportation Committee (Sen. G. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1258 was placed on the Sixth order on the calendar.

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

Page 2, after line 16, insert:

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

Renumber accordingly

2007 TESTIMONY

HB 1258

Senate Transportation Committee  
Senator Gary Lee Chairman

My name is Larry J. Jones. My wife & I own & operate a small business in southeastern ND 1 ¼ mile north of the town of Verona. We are a legally licensed, tax paying, sales tax collecting business.

My problem is, I installed a professionally painted sign along ND Highway #1 which is ½ mile from our business. Please understand our place is behind trees & cannot be seen from the highway.

We received a letter from the ND DOT stating I have to remove the sign sighting the Ladybird Johnson Highway Beautification Act of 1965. The letter says that my sign is in state right of way & I need a permit.

I called Billboard Officer Raymond Barchenger to request a permit. I stated that I would gladly move my sign out of the right of way.

His response was that I cannot put up a sign any place for any reason if the land is not zoned commercial. This land is all private owned agriculture land. I have permission from the land owner & power company & the township to put up the sign if the state says I can. State says NO.

This sign is very important to my business. I have people on a regular basis stop & say, "I saw your sign & stopped to see what you have."

I must add, the vast majority of my business is from hunters, sportsmen & other tourists that come to our great state for vacations & entertainment.

When I talked to Mr. Barchenger he informed me they sent out many, many notices to remove signs. This tells me there are many more small businesses across the state that cannot advertise their business.

In sight of your support for Marketplace and the starting of many home owned & operated businesses I think this an issue that needs to be addressed. We as business people should not be prevented from advertising our business in a neat professional way.

Thank You for your time,  
Your help with this matter would be greatly appreciated

Larry J. Jones