

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1359

2007 HOUSE TRANSPORTATION

HB 1359

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1359

House Transportation Committee

Check here for Conference Committee

Hearing Date: 02-01-2007

Recorder Job Number: 2550

Committee Clerk Signature

Lisa M Thomas

Minutes:

Chairman Weisz opened the hearing on HB 1359. All representatives were present.

HB 1359 relates to rear-end protection of trucks.

Rep. Belter introduced the bill. See written testimony.

Rep. Weisz: Do you want to clarify when you say it is difficult, if not impossible, what you mean by that?

Rep. Belter: There are sugar beet dumps as well as potato industry, they need to back up to a facility and something they can unload onto. When you have a bumper on there, you can't get back far enough so that you can dump these trucks, also for the grain truck industry, if you have a bumper on your truck, you are going to need a bumper that when you raise your box, that this bumper won't bottom out on the ground. You would have to have some sort of mechanism to have it collapse or something. There are mechanical problems and it costs two to three thousand dollars per truck to certify.

Rep. Vigesaa: How does South Dakota handle this?

Rep. Belter: I don't know, the construction industry is exempt.

Rep. Ruby: This is about a rear unload truck, does it include a rear end dump truck?

Rep. Belter: I am not sure, it is for ag products only.

Rep. Thorpe: I didn't realize it was a federal law, how does the DOT do it? Don't they have rear end trucks?

Rep. Belter: There is a requirement of inches for the hang over of the box.

Rep. Price: What is the federal regulation definition?

Rep. Belter: I don't know.

Rep. Aarsvold state for the record his support for this bill.

Paul Mathiason, Red River Valley Sugar beet Growers, spoke in support of the bill. See written testimony.

Rep. Owens: What if you drive over state lines, because then the federal law is in effect?

Mathiason: A lot of farmers do, but I do not.

Rep. Thorpe: Do the interstate laws apply to sugar beet and potato farmers over there?

Mathiason: No, we don't travel on interstate if we don't have to.

Dan Wogsland, Executive Director of the North Dakota Grain Growers Association, spoke in support of the bill. See written testimony.

Beau Bateman, Farmer from Grand Forks, spoke in support of the bill.

Bateman: We do transport sugar beets across the Red River into East Grand Forks and for years we have been trying to comply with both MN and ND rules and haven't had to have bumpers, although that has been in writing, it has not been enforced. When ND got restrictive on their waterfowl hunting guidelines, the guys from MN upped the restriction on trucks. Maybe there is some connection. They don't look at our bumpers, but they look at our plates and see that we have ND plates and know that we have to have bumpers, and they don't approve the trucks. When we go across the river, we understand that we are subject to federal laws.

Sandy Clark, North Dakota Farm Bureau, spoke in support of the bill. See written testimony.

Chairman Weisz allowed opposing testimony at this time.

Doyle Schulz, ND Motor Carriers Association, spoke in opposition to the bill. See written testimony.

Rep. Delmore: How many states have the exemption?

Schulz: I'm not sure.

Rep. Weisz: Your bumpers don't address the issue we are discussing.

Rep. Owens: Federal law states that we can exempt for intrastate commerce, certain things.

Schulz: In Jeff Jensen's letter, on the last paragraph, if you read that is also applies to intrastate operations. Obviously, the federal government only has control over intrastate operations, but in fact they did adopt the law and by reference became a state law. If you were to change that, they could use it for sanction purposes.

Rep. Owens: That is not the way I am reading this. There is a point in here where it talks about Grandfathering existing state law but it also says, "a state may exempt".

Schulz: We asked for direct information from D.C. because of that. There interpretation does not agree with that.

Rep. Gruchalla: Has ND ever applied for this before?

Schulz: No.

Rep. Gruchalla: We would lose federal funding for the Motor Carrier Safety?

Schulz: They "could".

Rep. Ruby: Is this just with semis or all trucks?

Schulz: 1952 law states that it is just for straight trucks.

Rep. Schmidt: What about logging trucks in Montana, is the rule different?

Schulz: Pole trailers are exempt.

Tom Baulzer, North Dakota Motor Carriers Association, spoke in opposition to the bill.

Baulzer: When I was driving back from Fargo last night, every trailer I was passing would have caught me right in the nose. Our main concern on the safety side of it is the rear impact and how people would be decapitated. Cars today are designed that when they have an impact, the front end is going to absorb most of that blow and there is going to be hopefully less injuries in that case. The rear end protection was put in place and looked at as one of the greatest passenger safety devised put into place because about twenty-five to twenty-six percent of accidents, with a semi is a rear impact axel.

Neutral testimony:

Keith Magnusson of the DOT, spoke to offer information.

Magnusson: DOT is concerned the highway patrol will lose money from the federal highway fund. They stand to lose ten percent of the funds, which is approximately twenty million per year.

There was no further testimony. The hearing was closed. No action was taken at this time.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1359

House Transportation Committee

Check here for Conference Committee

Hearing Date: 02-08-2007

Recorder Job Number: 3113

Committee Clerk Signature

Lisa M Thomas

Minutes:

Chairman Weisz allowed committee discussion on HB 1359. HB 1359 relates to rear-end protection trucks. Rep. Schmidt was absent.

Rep. Weisz: This is a bill for not requiring rear-end protection for trucks, if it's a farm truck. We have been having conversations with the highway patrol, but there are conversations going on now with the federal highway, I would recommend that we send this bill out, so it can get to the Senate side so there is more time to work on a solution with the federal. It's a long way before this bill becomes law.

Rep. Owens: This is going to take some work with the federal motor carriers and I haven't talked to them yet and South Dakota is in the same boat. We have just gone through the US code and there is no easy way around that. We will follow the code, but it is going to take a little time. We can fix this I believe; it's just a matter of time.

Rep. Vigesaa moved a DO PASS on HB 1359. Rep. Owens seconded.

Roll Call Vote: 9 yes 3 no 1 absent.

Carrier: Rep. Weisz

Date: 2-8-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass.

Motion Made By Vigesaa Seconded by Owens

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

Total Yes 9 No 3

Absent 1

Floor Assignment Weisz

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

REPORT OF STANDING COMMITTEE

HB 1359: Transportation Committee (Rep. Welsz, Chairman) recommends DO PASS
(9 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1359 was placed on the
Eleventh order on the calendar.

2007 SENATE TRANSPORTATION

HB 1359

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1359

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: February 23, 2007

Recorder Job Number: 3727

Committee Clerk Signature

Jody Hauge

Minutes:

Senator Lee called the Transportation Committee to order at 9:00 AM. There were five committee members present and one absent. Senator Lee handed over the gavel to Senator Nething.

Senator Nething opened the hearing on HB 1359 relating to rear-end protection of trucks.

Senator G. Lee introduced and testified in favor of HB 1359. His written testimony is enclosed along with actual pictures of rear end trucks. He stated that there was a window of opportunity that ND missed, when exemptions from the Federal Law were being allowed. The bill would exempt farm trucks, when hauling agricultural products, from the rear bumper requirement.

Representative Belter was unable to attend but he sent written testimony urging support for HB 1359. He stated that ND missed an opportunity to exempt ND from the federal regulations as Minnesota did. He also stated that having bumpers on farm trucks is not practical and would be very expensive to comply with. He urged the committee to pass this bill to send a message to show that we as a state intend to have these trucks exempt.

Representative Aarsvold testified in favor of HB 1359. He stated that most facilities that receive raw agricultural product are set up to have those products unloaded from a rear dump truck. A rear bumper would make it difficult to unload if not impossible. Even if a product

could be designed to provide rear end protection he would judge it to be less than fully effective and the cost would be prohibitive. He encouraged the committee to act favorably on HB 1359.

Dan Wogsland, Executive Director of the ND Grain Growers Association appeared in support of HB 1359. (Written Testimony).

Senator Potter asked if the law was not being enforced now.

Mr. Wogsland said that there were individuals in the room that could better answer that question.

Senator Potter said that the legislature passed a minimum wage bill contingent on Federal action. Would the sponsors be content with making this bill contingent upon receiving the Federal waiver?

Mr. Wogsland said he could not speak for all the sponsors but he said that he believes that all should work together to make this work. At present there is a real liability issue. He is concerned about what happens to that farmer when there is an accident. Also to put a bumper on all of these trucks, in some cases the bumper is going to be worth more than the truck.

Sandy Clark representing the NDFB testified in support of SB1359. (Written Testimony)

Senator Fiebiger said that this window of opportunity for an exemption was many years ago and he said he had worked with the Federal Government and wondered if they would consider going back and giving the exemption. Is it a realistic assumption that the Federal Government will consider the exemption?

Sandy Clark said she believes that it is possible. She gave an example of an issue that FB had with a Federal Agency in ND and the head of the agency knew exactly what they needed to do but sometime the middle management doesn't want to change. She said we have to try to get this exemption.

Deana Wiese, administrator of the ND Ag Coalition spoke in support of HB 1359. Agricultural producers in no way want to compromise safety or federal funding, but do feel the law as it currently stands puts a great burden on producers transporting their commodities. Fitting rear unloading trucks with bumpers is cost-prohibitive, as well as extremely impractical. (Written Testimony)

Opposing Testimony

Colonel Bryan Klipfel, Superintendent NDHP spoke in opposition of HB 1359. There concern is safety as well as fiscal responsibility. (Written testimony and pictures enclosed).

Senator Bakke asked how many accident have there been related to not having rear end bumpers on trucks and how serious have these accidents been.

Col. Klipfel said that they haven't had many in this state but about 3 weeks ago SD had a farm truck that was turning into a place and a car ran into the back of the vehicle and there was a person killed and another severely injured. He said that we have had accidents in ND but he couldn't recall any.

Senator Lee said that given the situation with the fact that we should be enforcing something on the books and the farm group situation, he asked where Col. Klepfel thought these groups might come together.

Col. Klipfel said he thinks it will be very difficult to get the exemption. He said that he would be willing to try even if they had to go to WDC. He believes the exemptions for farm trucks will be very hard to get but he said they could try.

Senator Bakke asked if she understood it correctly that the Hwy Patrol is not enforcing this law at present and what is the penalty if the truck doesn't have a bumper.

Col. Klipfel said they haven't been sitting at the beet dumps or elevators to catch these farmers but if they have an inspection set up and this truck comes in, they will take enforcement at that time.

Senator Bakke asked what the penalty was.

Col. Klipfel said it is an inspection and goes down on their record as a violation.

Senator Potter asked if we were in compliance with Federal Law if we leave the law the same. To clarify, Senator Potter asked, "Does Federal Law require a penalty?"

Col. Klipfel said the real penalty is that the violation is put on the inspection form and there would be a safety hazard on the record of that vehicle. Also if there was an accident there could be some ramification.

Tom Balzer of the NDMCA testified in opposition to HB 1359. His written testimony is enclosed along with a letter from Jeffrey Jensen, Federal Motor Carrier Safety Administration.

Senator Nething asked if he had testified in the House.

Tom Balzer answered, "Yes".

Keith Magnusson, of the NDDOT said that their concern was the funding if Federal funds are lost. It will jeopardize HWY funds.

Senator Potter referred to the letter that Keith had and said that if improvement in enforcement are not made they will consider cutting off funds. They are not referring to the rear bumpers they are talking about size and weight.

Mr. Magnusson said that we are removed from this but if the Hwy Patrol loses funding to regulate size and weight than the DOT has to do it.

Senator Lee closed the hearing on HB 1359.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1359

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: 4183

Committee Clerk Signature *Judy Hauge*

Minutes:

Senator Lee called the Transportation committee to order to discuss HB 1359 a bill relating to rear-end protection of trucks. Senator Lee said that they were working with the Highway Patrol, DOT, Truck Regulatory and the Congressional Delegation to see if they could get that exemption for farm trucks. We are trying to keep the bill around so this has time to happen.

Senator Lee offered an amendment that would provide a sunset that if this bill passed it would sunset on July 31, 2009.

Senator Nething moved amendment 70669.0101 to HB 1359.

Senator Potter seconded the amendment.

The clerk called the roll 6-0-0.

Senator Andrist moved a Do Pass as amended for HB 1359.

Senator Bakke seconded the motion.

Senator Potter had a question on if passing the law puts us in violation.

Senator Lee said the Federal Law was passed in 1988 and it said that we had to have these rear-end bumpers and nearly every farm truck does not have a rear-end bumper. So we are in violation and the Highway Patrol has not strongly enforced it. The Highway Patrol is getting concerned about looking the other way and through the bill it would say that they wouldn't

enforce the rule as it exists in Federal Law. We can do this but there is a risk in losing Federal Funding. We don't want that to happen either.

Senator Potter expressed his concern about losing these Federal Funds.

Senator Nething said that we have a Federal delegation that has the contacts and can work with the Federal offices and hopefully get the exemption for farm trucks. He expressed a concern to protect our farmers.

Senator Bakke asked if we might consider an amendment to this bill that would state it is contingent upon approval from the Federal Government.

Senator Lee said that farmers would still be in violation of Federal Law. There is not a bumper out there that will satisfy the criteria that they have. NDSU is working on a design but they couldn't pass the inspections.


Senator Nething said that we are in violation with the Federal Law but what this bill changes is it gives direction to our local enforcement people.

Senator Fiebiger asked that if what we are trying to do is give more time to our Federal delegation to see if they can't get the exemption for farm trucks. He is not opposed but concerned that the next 18 months may not make a difference.

Senator Lee said that our Congressional Delegation is in a majority position and that could make a huge difference.

The clerk called the roll 6-0-0

Senator Lee will carry the bill.



3-1-7

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1359

Page 1, line 2, after "trucks" insert "; and to provide an expiration date"

Page 1, after line 10, insert:

"SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2009,
and after that date is ineffective."

Renumber accordingly

Date: 3-1-07
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number Amendment 70669.0101

Action Taken Do Pass

Motion Made By Senator Nothing Seconded By Senator Potter

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator JoNell Bakke	✓	
V Ch John Andrist	✓		Senator Tom Fiebiger	✓	
Senator Dave Nothing	✓		Senator Tracy Potter	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 3-1-07
Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1359

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 Lee

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

REPORT OF STANDING COMMITTEE

HB 1359: 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 1359 was placed on the Sixth order on the calendar.

Page 1, line 2, after "trucks" insert "; and to provide an expiration date"

Page 1, after line 10, insert:

"SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2009, and after that date is ineffective."

Renumber accordingly

2007 HOUSE TRANSPORTATION

CONFERENCE COMMITTEE

HB 1359

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1359

House Transportation Committee

Check here for Conference Committee

Hearing Date: 04-13-2007

Recorder Job Number: 5983

Committee Clerk Signature

Lisa M Thomas

Minutes:

The conference committee on HB 1359 was called to order. Chairman Weisz, Rep. Owens, Rep. Schmidt, Sen. G. Lee, Sen. Nething, and Sen. Bakke were all present.

Sen. Lee: We didn't do a whole lot to this bill, we simply added a expiration date to the bill that would sunset after the next biennium.

Rep. Weisz: Some of us have some issues with this so I think we will just adjourn this committee until we have some further information.

The hearing was closed. No action was taken at this time.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1359

House Transportation Committee

Check here for Conference Committee

Hearing Date: 04-19-2007

Recorder Job Number: 6140

Committee Clerk Signature

Minutes:

The conference committee on HB 1359 was called to order. All conferees members were present. HB 1359 relates to rear-end protection of trucks.

Sen. G. Lee proposed amendments. See attached.

Sen. G. Lee: The amendments were originally from Rep. Owens and I just added one little thing that. It keeps the, pretty much the original section one intact except on page one, line eight after the second truck there it includes also trailer. That is to accommodate those semi-trailers to be used as agricultural in hauling farm products that they would be included in there as well. Then in section two, it is just a study during the interim of the federal motor carriers safety regulations and exemptions and then section three as everyone knows, the highway patrol has began the application process for an exemption from this federal provision of having a rear-end protection on farm trucks and that application we are suggesting and telling them here needs to be put in by July 1st of this year, or if it isn't this bill as written and passed will become law on August 1st and once the application is submitted if it takes time for the feds to act on it we will continue in that state of unknown until October 1st, 2008 at which time the law would become effective if it would be passed. That will allow the federal funds we expect to

continue through the biennium and if the next legislative session needs or wants to deal with it then if it does pass, they are able to do that.

Sen. Nething seconded the amendments.

Rep. Owens: All I was going to mention is to thank Sen. Lee for adding the trailers on because I have a note here that says not to forget trailers.

Sen. Bakke: The one thing I want to clarify is let's say that we apply for the exemption and we don't get it. Does this still go into law?

Rep. Weisz: This would become effective on October 1st, 2008, regardless, which will mean that the sixty-first legislative assembly will probably have to address the issue at that point in time, but the reason for that date being put in there is that we will definitely know one, when we come in January of 2009 whether or not we are going to lose the federal funding. I think you will know that if it is going to be withdrawn or not and we will know if we got the exemption or not obviously and then that body will have to make a decision how it is going to deal with that. There is obviously several options, they can just do away with the law and go back to the way it was, or decide to accept the loss of funds and replace them with general funds or possibly other alternatives but I think everything will be on the table and we will know exactly where we stand, so that was the reason that it was specific to go into affect prior to the session, but not early enough so that there is going to be a struggle there or lose funds possibly in 2007 and what is the highway patrol going to do potentially for a year and then the ripple effect of possibly shaking down to the DOT that they could lose some federal funding because they are not in compliance on the weight enforcement area. That is the reason for the language.

Sen. Bakke: So there is no way we would lose funds between now and the next time we are here?

Rep. Weisz: I would say never say never, but there is always a provision in place to correct your deficiency and get back in to good graces, so you have two months before your meeting and I have never seen a federal bureaucracy even be able to start to move that fast and that is the reason. I am not saying there is going to be an intent that we plan to withhold the federal funding but you always have periods to fix the addition fee or the reason why your funds are being withheld. We will be back in on the second or third of January, if necessary; you can take action within two or three weeks. The highway patrol has to do everything possible to make sure it's a good application and expeditiously so we get the exemption if at all possible and if we don't get the exemption I think you will then see both the highway patrol working with legislators and others to come up with a solution as we go into the 2009 session. I think this is probably as good of a compromise as they could come up with. It would have been nice if we could have known whether or not we get the exemption, but obviously we don't have that.

Rep. Schmidt: I would expect that there will be an interim study.

Sen. Nething: On that issue it would be helpful if the two chairman of the Transportation committees would write a letter to the council urging them to do that and set out your visions because I think that is important sometimes. I know when I have been on a council in the past, nobody would ever care about the study and this is one we should care about.

Rep. Weisz: That is an excellent suggestion and I will do that.

Rep. Weisz: Clerk will call the roll for the **Senate to recede from the Senate amendments and to adopt amendments .0103**

Roll Call Vote: 6 yes. 0 no. 0 absent.

Carrier: Rep. Weisz

The conference committee was dissolved.

April 18, 2007

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1359

That the Senate recede from its amendments as printed on pages 1406 and 1407 of the House Journal and page 911 of the Senate Journal and that House Bill No. 1359 be amended as follows:

Page 1, line 2, after "trucks" insert "and trailers; to provide for a legislative council study; and to provide for a contingent effective date"

Page 1, line 8, after the second "truck" insert "or trailer"

Page 1, after line 10, insert:

"SECTION 2. LEGISLATIVE COUNCIL - EXEMPTION FROM FEDERAL MOTOR CARRIER SAFETY REGULATIONS STUDY. The legislative council shall consider studying, during the 2007-08 interim, federal motor carrier safety regulations and exemptions for interstate and intrastate transportation in relation to this state's laws and exemptions. This study shall include a review of any industry-specific applications of regulations and possible exemptions to current transportation activities within this state.

SECTION 3. CONTINGENT EFFECTIVE DATE. Section 1 of this Act becomes effective on the earlier of October 1, 2008, or on approval of this state's application for exemption from rear-end protection requirements for vehicles in section 1 of this Act by the federal motor carrier safety administration, unless the superintendent of the highway patrol does not complete and submit an application for exemption for vehicles in section 1 of this Act by July 1, 2007, then section 1 of this Act becomes effective on August 1, 2007."

Renumber accordingly

Conference Committee Amendments to HB 1359 (70669.0104) - 04/19/2007

That the Senate recede from its amendments as printed on pages 1406 and 1407 of the House Journal and page 911 of the Senate Journal and that House Bill No. 1359 be amended as follows:

Page 1, line 2, after "trucks" insert "and trailers; to provide for a legislative council study; and to provide for a contingent effective date"

Page 1, line 8, after the second "truck" insert "or trailer"

Page 1, after line 10, insert:

"SECTION 2. LEGISLATIVE COUNCIL - EXEMPTION FROM FEDERAL MOTOR CARRIER SAFETY REGULATIONS STUDY. The legislative council shall consider studying, during the 2007-08 interim, federal motor carrier safety regulations and exemptions for interstate and intrastate transportation in relation to this state's laws and exemptions. This study shall include a review of any industry-specific applications of regulations and possible exemptions to current transportation activities within this state. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 3. CONTINGENT EFFECTIVE DATE. Section 1 of this Act becomes effective on the earlier of October 1, 2008, or on approval of this state's application for exemption from rear-end protection requirements for vehicles in section 1 of this Act by the federal motor carrier safety administration, unless the superintendent of the highway patrol does not complete and submit an application for exemption for vehicles in section 1 of this Act by July 1, 2007, then section 1 of this Act becomes effective on August 1, 2007."

Renumber accordingly

