

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1423

2007 HOUSE TRANSPORTATION

HB 1423

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1423

House Transportation Committee

Check here for Conference Committee

Hearing Date: 01-26-2007

Recorder Job Number: 2071

Committee Clerk Signature

Lisa Thomas

Minutes:

Chairman Weisz opened the hearing on HB 1423. All Representatives were present.

HB 1423 relates to youth operation of off-highway vehicles; and to provide a penalty.

Rep. Kelsch introduced the bill.

Rep. Kelsch: I stand before you in support of HB 1423. I was approached this fall by a constituent of mine and Arik Spencer from Parks and Recreation. The last legislative session, we made considerable changes to our off-highway vehicle laws and when we did that, at some time, you omit some of the sections of law and so part of this is clean up and part of it is safety issues. The first of the changes to the bill, changes all references from all-terrain vehicles to off-highway vehicles. Basically, what this change does is it provides unity between section ten and the rest. In speaking to these individuals, what they said to me was when we went to make the change, the law affected motor-cross vehicles and this will bring us into compliance with the rest of 39.09. The second change reduces the minimum age of off-highway vehicles to ten years of age limiting the size of the engine by age groups and requires supervision of a parent of guardian with those children less than twelve years of age. This is currently being done now, especially in the motor cross races, so it is something that we probably think is a good idea to bring it into statute, along with public safety issues and safety issues toward these drivers.

(Kelsch intro continued)

Kelsch: It basically brings the age standards closer to the ATV safety institute and a manufacturers projected age and engine size level. Additionally, this amendment recognizes various motor-cross events, which are happening across ND with youth division and a number of these events are taking place and are a source of revenue for local communities. For those of us that lived here all of our lives, we know that there is not a lot of activities for our young youth, especially in some of the rural communities. These are events that are held and we want to make sure that those young people that are participating in these events have all of the safety measures necessary for them. The other change makes it a violation and increases the fine for a violation of this section for persons under the age of sixteen to twenty dollars.

Basically this is more of a financial incentive to take the training. Currently, the training is ten dollars, so we want to encourage these young people to take the training and currently you can, if you are ten years old, and the way that our law reads, you would not be able to go in to take the training because you do not meet the minimum age requirement. So you can go through the training, but you cannot receive your certificate of training saying to have received it. I look at this as safety for these young people, however I will say that I was not aware of the bill coming up next and if we were to go ahead and reduce these age limits, I would probably be opposed to lowering the age limit if we decided to pass the next bill that allows these ATV's to be on highways. I think that is a real safety issue.

Rep. Weisz: We have six and eight year old kids riding motor cross. I'm not sure how this addresses that.

Rep. Kelsch: I will have Arik address that.

Arik Spencer, North Dakota Parks and Recreation, spoke in support of the bill. See written attached testimony.

Rep. Weisz: Are we technically, all of these races are illegal?

Spencer: If they occur on public property they are, the ones on private property it is not.

Rep. Weisz: This bill will allow kids under ten to take the training?

Spencer: Yes, but they can only become certified at age twelve.

Kim Brandner, ND Dirt Riders, spoke in support of the bill.

Brandner: My daughter Hannah has been rider's motorcycles and ATV's for the last two years. We do it as a family event and unfortunately I don't own a lot of land. I am a little disappointed that it was introduced at age ten. She's been doing this for two years now. She has raced in organized events. She is in proper safety attire. She has a helmet, goggles, long pants, boots, chest protector and gloves. She is usually within fifteen feet of where I am. She is not on the machine if I am not right there with her. I would like to see the age changed to a minimum of eight. I am disappointed that it was introduced at ten. We ride on public land and it's disheartening for me to go out without her.

Rep. Dosch: The bike that Hannah rides, how many CC's is it?

Brandner: That is a fifty cc Honda.

Rep. Delmore: Has your daughter been trained?

Brandner: I have assisted with training in large groups and I help with that, I have trained her myself, as well as my brother. She is pretty good.

Rep. Delmore: Are most other parents as dedicated to the safety factor that you are?

Brandner: As a matter of fact, I do believe that majority of the parents are. When we are out and about in a public place and we see something that is unsafe, we say something.

Rep. Kelsch: How many members are there in your organization?

Brandner: There are about one hundred.

Wes Hendrickson, Member of the ND Dirt Riders, spoke in support of the bill.

Hendrickson: I've got several grandkids that are that age and to put it into prospective, a lot of parents will buy these little jeeps and battery operated vehicles and these children start operating those at about four or five years old or younger and start developing their skills. They get to a certain age where they grow beyond that.

Daryl Brandner, North Dakota Dirt Riders Assoc, spoke in support of the bill.

Brandner: I support this bill, but I too would like to see the age lowered.

Annette Caldwell, Off-road Honda, spoke in support of the bill. See written testimony.

Robert Wokal, Heritage Auto, went on record as being in support of the bill.

Chairman Weisz allowed for opposition to HB 1423 at this time.

Dr. Todd Twogood, spoke in opposition to the bill. See written testimony.

Rep. Dosch: Does it make a difference with injuries, the size of the bike and cc's?

Dr. Todd Twogood: Most accidents I see are when a child is on an adult-size ATV.

Tanya Wisnewski, ND Safe Kids, spoke in opposition to the bill. See written testimony.

Diana Read, ND Dept. of Health, spoke from a neutral position to the bill. See written testimony.

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

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1423

House Transportation Committee

Check here for Conference Committee

Hearing Date: 02-01-2007

Recorder Job Number: 2622

Committee Clerk Signature

Lia M Thomas

Minutes:

Chairman Weisz allowed committee discussion on HB 1423. All Representatives were present.

Rep. Weisz: I had these amendments done by Kyle. The question came up having to do with Motocross races and they have currently been doing them for the last thirty years or longer and probably they have all been illegal, so the first amendment would allow an organized sporting event to be an exception. Then the age limit wouldn't apply for an organized sporting event. The only other change was that we added the wording for proper safety gear and attire which is what they teach them in the safety class. I think these amendments address the issues.

Rep. Weisz: What are the committee's wishes?

Rep. Kelsch moved to adopt the amendments. Rep. Delmore seconded.

Voice vote: 13 yes. 0 no. 0 absent.

Motion carried.

Rep. Kelsch: Just to address the eight year old issue, when I was approached by some constituents of mine and talking with Arik Spencer they did ask me to introduce it at age eight. I had some reservations about age ten, but I couldn't go down to age eight and I know that his

little girl is riding the little motocross bike and maybe it's okay to ride. There are knock off brands of bikes that weigh eighty or ninety pounds that people can pick up. I do know that there are smaller ATV vehicles that don't weigh as much. I do also appreciate the fact that these people that are riding these motocross bikes do it as a family and I am all in favor of families doing that. I think my hesitation is on the ATV part. We have to remember that this only applies to public land. Whatever we do does not apply to kids using their own ATV's on their own land. That is probably where we have seen a majority of the instances and accidents. Arik Spencer said there have been no accidents on public land.

Rep. Weisz: This bill doesn't affect me, for example, or my kids, because we are not riding on public lands. This is for the urban people who have no choice but to ride on public land.

Rep. Ruby: The information that I received, I'd asked the question about how many were on public lands and private lands. The information was given to me said that children younger than twelve who were involved in an ATV accident from January 1, 2005 until October 6th of 2006, it is reported by ambulance personal, four were farm, one was a residence, two were public place, two were off-road, two were traffic at fifty five plus miles per hour highways, and five were other traffic way, including all public roadways and streets.

Rep. Kelsch: Would it be better for us to split out so that the motor-cross would be a separate age group and still have the appropriate gear.

Rep. Owens: Didn't we do that with the amendments?

Rep. Weisz: It says organized sporting event, so it could be a group not motor-cross, and that doesn't address that. Yes, you could have an exception of motorcycles.

The committee decided to draft more amendments. No action was taken on this bill.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1423

House Transportation Committee

Check here for Conference Committee

Hearing Date: 02-08-2007

Recorder Job Number: 3111

Committee Clerk Signature

Lisa M Thomas

Minutes:

Chairman Weisz allowed committee discussion on HB 1423. All Representatives were present. HB 1423 relates to the operation of off-highway vehicles by youth.

Rep. Weisz: I believe you have the amendments. These amendments attempt to address two issues brought forward in the hearing. Page one, line nine, addresses the issue of the races that are an organized sporting event, this would exempt them. The second on page one line fourteen, adds the language that the committee had already approved that say everyone must wear appropriate safety gear and attire. The next language changes it to say that individuals at least eight years of age and under ten years of age, would be able to operate a class 1 vehicle only, seventy cc or less. You have to be at least ten years of age to drive an ATV and a maximum of ninety cc's but for eight to ten years, you could drive a motorcycle, with proper gear, a safety certificate and it has to be a max of seventy cc's.

Rep. Kelsch moved to adopt the amendment. Rep. Owens seconded.

Rep. Kelsch: I think this addresses the issue about motocross events and not only have them, but also the ability for families to be able to ride together and do their sport together and I felt comfortable with this language.

Rep. Owens: If I read this correctly, we are talking about class 1 for eight to ten but you still need to be twelve to take the certified class, oh, we are not changing that.

Voice Vote: 13 yes. 0 no. 0 absent.

Rep. Delmore moved a DO PASS AS AMENDED. Rep. Owens seconded.

Carrier: Rep. Owens.

Date: 2-1-07
Roll Call Vote #: 1423

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

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Voice Vote

Motion Made By Kelsch Seconded by Delmore

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

Total Yes _____ No _____

Absent _____

Floor Assignment Motion carries adopt Amendment

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

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

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

House Transportation 1423 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendments Voice

Motion Made By Kelsch Seconded by Sukut

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

Total Yes _____ No _____

Absent Motion Carried

Floor Assignment _____

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

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

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

House Transportation 1423 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Delmore Seconded by Owens

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

Total Yes 12 No 1

Absent 0

Floor Assignment Owens

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

REPORT OF STANDING COMMITTEE

HB 1423: Transportation Committee (Rep. Welsz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1423 was placed on the Sixth order on the calendar.

Page 1, line 9, after "guardian" insert "or as a participant in an organized sporting event that involves the use of off-highway vehicles"

Page 1, line 12, overstrike the second "and" and insert immediately thereafter an underscored comma

Page 1, line 14, after "transportation" insert "and wears appropriate safety gear and attire. An individual at least eight years of age and under ten years of age may not operate an off-highway vehicle unless the vehicle is a class 1 with an engine of no more than seventy cubic centimeters and that individual has received an off-highway vehicle safety certificate"

Renumber accordingly

2007 SENATE TRANSPORTATION

HB 1423

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. Engrossed HB 1423

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: March 15, 2007

Recorder Job Number: 5156

Committee Clerk Signature

Jody Hauze

Senator Gary Lee opened the hearing on Engrossed HB 1423 relating to youth operation of off-highway vehicles; and to provide a penalty.

Representative Kelsch introduced Engrossed HB 1423. She introduced this bill on behalf of some of her constituents in Mandan. She says she believes strongly in safety and she is an individual that believes strongly in family. She said the reason that she introduced this bill is because she believes that we don't do things as a legislature to encourage families to do things together. This is one of those bills. Rep. Kelsch went on to explain Engrossed HB 1423. She said they changed all terrain to off-highway vehicles and the second change was the reduction of age for operation for the small motor bikes. They also added appropriate safety gear and attire. In addition, they increased the penalty. She also stated that these laws are for Parks & Recreation land and Motor Cross events.

Senator Fiebiger asked if there was concern on how these age groups can control a vehicle.

Rep. Kelsch said she never had one or used one and doesn't know a whole lot about them but the language that we were given is that it fits in very well with the safety restrictions that are put on ATV & Motor Cross Vehicles. They break it out into age groups and other people testifying will give the committee more of the specifics. She did say that some of these little ATVs only weight about 60-70 pounds.

Senator Potter said that the way he understands it is that in current law if you are under 16 years of age you can't go on any land except on the lands of your own parents. So you can't go on state park or someone else's parents?

Rep. Kelsch said what the law currently reads is if you are under 16 years of age and if you are not in possession of a valid drivers license than these are either on the land of the individual parents or guardians.

Kim Brandner and his eight year old daughter Hannah from Bismarck testified in support of Engrossed HB 1423. Hannah has been riding motor cycles and ATV for about 2 years. He said that they do this as a family. He said that until this process of changing this law started he never realized they were breaking the law. Most of the accidents that happen with ATV are agriculture related. Very few accidents have been on recreational vehicles. He handed out some statistics on OHV Registration tracking and went over some of the numbers. He urged support of this bill and for allowing families to continue to enjoy this outdoor activity together.

Annette Behn Caldwell testified in support of Engrossed HB 1423. Her written testimony is enclosed along with safety material and she also brought in a little motor cycle bike.

Senator Potter asked how fast this little motor cycle goes.

Annette said that the unit went about 30 MPH but it has a governor on it that parents can turn down. It also has a three speed that she tells parents not to tell the kids about.

Daryle Brandner testified in support of Engrossed HB 1423. This bill will tighten some regulations. Children have to have a safety training course, they are required to wear and have safety equipment and parents have to be present. They also are restricted on size of off road motor vehicle. He handed out an Executive Summary of the All-terrain Vehicles in

Minnesota: Economic impact and consumer profile. It states in the summary that most off-road motor vehicles are used for people to ride with their friends and their families.

Laura Lueder, a member of the North Dakota Dirt Riders, a state wide Off-Highway Vehicle organization testified in support of HB 1423. Her written testimony is enclosed.

Senator Andrist said aside from the safety issue, it is important for kids to be physically challenged. Bike riding is great for recreation and well being, will you comment on that.

Laura said her family does ride bike and it is good training for off road riders. She said if you have ever ridden off road vehicles you will know how physically strenuous it is. It requires more body strength than bike riding.

Aaron Mulman and his two sons testified in support of Engrossed HB 1423. This bill is all about common sense and for his family this has been a beautiful experience that promotes family togetherness.

Jeromy Hizinger owner and dealer testified in support of Engrossed HB 1423. He talked about safety and the danger that is involved in different sports. He had his two sons with him.

Senator Lee asked for any opposition testimony.

Dr. Two Good testified in opposition to Engrossed HB 1423. His written testimony is enclosed.

Senator Potter said that these folks are seeking some type of regulation and training.

Dr. Two Good said the issue is not regulating, it is the limitations on age. These children don't have enough ability to handle these machines.

Senator Nething asked if he had testified in the House.

Dr. Two Good said he did but my testimony was a little different. The thing he stressed to the House was that the American Academy of Pediatrics has very strong feelings and gave statistics. Today he talked from the heart and remembered 14 years and all the injuries he has treated from ATV accidents.

Diana Read, Director of the Injury/Violence Prevention Program for the ND Department of Health testified in opposition to Engrossed HB 1423. Her written testimony is enclosed along with a definition of what off-Highway Vehicles classes are and pictures of the classes. She stated that to protect children from injury and death caused by ATV related accidents, the Department of Health recommends that HB 1423 be amended to reflect the recommendations of ATV manufacturers and the CPSC.

Senator Nething asked what would be the amendment proposed.

Diana Read said they didn't have any prepared but said they would work with the committee on those. She said they would like to see at least the recommendations of the manufacturers and the CPSC which requires children under the age of 16 to ride appropriate size vehicles.

Paul Sanderson, PCI testified in opposition to Engrossed HB 1423. They have the same concerns as already stated. Our biggest concern is on line 22 and individual at least age 13 and fewer than 16 has no restrictions on size. This is especially of concern when it ties in with a bill heard earlier in your committee (HB 1445). This would allow a 13 year old child to operate an ATV on the highway. We do not believe the size appropriation extends far enough.

Senator Bakke asked if they are insurable.

Paul Sanderson said yes as long as they are operating on own land.

Dave Peske, ND Medical Associations testified in opposition to Engrossed HB 1423. He handed out two items: a postcard that the American Academy of Orthopedic Surgeons is sending out: Over the river and through the woods to the trauma center we go. Also the way he reads the bill, lines 15, 16, 17 it says when talking about an 8 year old, they must ride a certain size vehicle and have a safety certificate but earlier in the bill it says a 10 year old has to wear safety equipment. It is not requiring the safety equipment for the 8 year old. It is probably an oversight.

Tanya Wisnewski, Coordinator of Safe Kids North Dakota testified in opposition of Engrossed HB 1423. Her written testimony is enclosed.

Kelly Rogers, State Highway Patrol testified in opposition to Engrossed HB 1423. He is concerned about the conflict of HB 1445 and this bill and it moves the 13 year old and older out onto the highways.

Senator Potter asked Eric Spenson of the ND Parks & Rec. a question.

Senator Lee closed the hearing on Engrossed HB 1423.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. Engrossed HB 1423

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: March 16, 2007

Recorder Job Number: 5195

Committee Clerk Signature *Judy Hange*

Minutes:

Senator Lee opened committee work on Engrossed HB 1423 relating to youth operation of off-highway vehicles; and to provide a penalty.

Senator Andrist moved a Do Not Pass on Engrossed HB 1423.

Senator Nething seconded the motion.

Senator Lee asked if there was anyway we could do to modify this bill so it is acceptable.

Senator Potter said he was uncomfortable with the idea of an 8 year old riding this motorized vehicles but the fact is they are doing it. He said he liked the idea of putting into place appropriate training and safety equipment. Parents are asking the legislature to make it legal but to make it legal in a very safe and supervised way. He said that he opposes it but is there a number in the bill that would make it more comfortable to the majority of the committee because he would like to see it moved in that direction. He stated that the Parks & Recreation Dept. is safety conscious and they think it is alright. He will be opposing the motion.

Senator Fiebiger said after hearing Dr. Twogood's testimony and looking at the age limits, even 12 years of age is giving him heartburn. He doesn't think this bill can be fixed.

Senator Nething wondered if even twelve was old enough. Senator Nething commented on bringing in one of these devices with training wheels on it.

Senator Lee commented on the testimony that said to parents, don't show them how to start it or shift it because it goes faster.

Discussion followed on age appropriate.

Senator Andrist said these kids need to ride tricycles and bicycles to gain coordination and strength.

Senator Potter said he did not disagree with anything that the Senators are saying and he wouldn't buy one for his kids but government can't be the nanny. He said we are not Super Nanny. Parents have to have a responsibility here. These parents are coming in and asking us to let them do this legally because they are already doing it illegally. Maybe I'm just soft on crime.

Senator Lee said that he thinks they are asking us to condone and endorse a behavior that most of us don't agree with.

Senator Nething said we have to have broader responsibility.

Senator Lee asked the clerk to take the roll on a Do Not Pass motion on Engrossed HB 1423.
5-1-0.

Senator Bakke will carry the bill.

Date: 3-16-07
Roll Call Vote #: /

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. Engrossed H B 1423

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do not Pass

Motion Made By Senator ~~Netting~~ Andrist Seconded By Senator Netting

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

Total (Yes) 5 No 1

Absent 0

Floor Assignment Senator Bakke

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

REPORT OF STANDING COMMITTEE (410)
March 19, 2007 8:31 a.m.

Module No: SR-51-5617
Carrier: Bakke
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1423, as engrossed: Transportation Committee (Sen. G. Lee, Chairman) recommends
DO NOT PASS (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed
HB 1423 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1423

Testimony

House Bill 1423

House Transportation Committee

Friday, January 26, 2007

Safe Kids North Dakota

Mr. Chairman and members of the House Transportation Committee, my name is Tanya Wisnewski and I am the Coordinator of Safe Kids North Dakota. Our childhood injury prevention coalition is a state-wide group with the North Dakota Safety Council as the lead agency. Our mission is to prevent the number one killer of children under age 14, which is accidental injuries. I am here to testify in opposition to House Bill 1423. A particular concern to us is the provision which would allow a 10 year old to operate an ATV.

Safe Kids Worldwide recommends that children under age 16 should not operate adult or youth sized ATV's at all. This same recommendation has also been put forth by the American Academy of Pediatrics. The recommendations from Safe Kids and the American Academy of Pediatrics are based on several factors. First, ATV's are difficult to operate and children do not have the cognitive and physical capabilities to operate these vehicles safely.

Second, ATV related injuries tend to be serious and while wearing a helmet can reduce the risk of head injuries, there are no safety devices to adequately protect a small body from being crushed by such a heavy machine, weighing anywhere from 200-600 pounds.

According to a study of ATV injuries conducted by Altru Health System in 2005, abdominal injuries occurred in 24% of these children most often resulting from the ATV landing on top of the child. These injuries resulted from children driving these heavy vehicles on uneven terrain and not having the upper body strength to correct the tipping motion once it had started.

Children are dying and being injured from ATV's at an alarming rate. In ND, three children died as a result of ATV injuries in 2005. According to hospital data in two major cities in the state, the number of ATV related injuries being seen in the emergency rooms is up 50% over the last three to four years. They also report that the children being injured are younger each year. The more that we lower the age for riding on these vehicles, the more we send the message that it is a safe activity – it clearly is NOT.

