

2009 SENATE TRANSPORTATION

SB 2409

# 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2409

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: February 5, 2009

Recorder Job Number: 8737

Committee Clerk Signature

*Jody Hauge*

Minutes:

**Senator Lee** opened the hearing on SB 2409 relating to motor vehicle excise tax: relating to rental plates.

**Senator Fiebiger** introduced the bill for Senator Robinson. Senator Robinson supplied written testimony in support of SB 2409. Attachment #1

## Opposing Testimony

**Jack McDonald** representing Enterprise Car Rentals of the Dakotas testified in opposition to SB 2409 because it will take away the level playing field. Rental car companies already pay a premium price per plate for their rental car plates. North Dakota is one of the higher states in the country as far as what they charge for rental plates. He said dealers (our competition) rent cars and demonstrate cars for a weekend, this would give dealers an opportunity to take rental plates and only pay a small fee (\$20) while we are paying \$450 - \$500. On behalf of Enterprise we urge a Do Not Pass.

**Robert Lamp** representing the Automobile Dealers Association of North Dakota testified in opposition to SB 2409. Written testimony found in attachment #2.

**Glenn Jackson**, Director of the Motor Vehicle Division at the ND Department of Transportation testified in opposition to SB 2409. Written testimony found in attachment #3.

**Senator Lee** closed the hearing on SB 2409.

**Senator Nodland** moved a Do Not Pass.

**Senator Nething** seconded.

Roll call vote 5-0-1

Senator Marcellais will be the carrier.

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/27/2009

Bill/Resolution No.: SB 2409

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			(\$408,000)	(\$19,500)	(\$408,000)	(\$19,500)
<b>Expenditures</b>				\$4,141		\$4,141
<b>Appropriations</b>				\$4,141		\$4,141

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 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).*

This bill allows dealers to use dealer plates for the purpose of renting vehicles for not more than 30 days.

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.*

Section 1, paragraph 2 allows dealers to use dealer plates to rent vehicles. There are 102 new car dealers in North Dakota and it is estimated that they would each order approximately 5 new plates for rental purposes.

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.*

Based on input received from the dealers contacted it is estimated that an average request 5 additional plates will be ordered for rental purposes. New car dealers will be more likely to order these due to their service departments.

Additional revenue generated from this bill is estimated as follows:

New car dealers = 102  
Estimated New plates per dealer = 5  
Total New plates per year = 510  
Cost per plate per year(\$20 Each) = 20  
Total Estimated Revenue = \$10,200 per year  
Total Revenue per biennium = \$20,400

Estimated Loss MV Revenue from this bill is as follows:

New car dealers = 102  
Estimated vehicles not paying fees = 510  
Estimated title and reg fees = \$95  
Estimated Revenue loss = \$19,950  
Estimated Revenue loss per biennium = \$39,900

Revenue loss in title and registration fees balanced with revenue gains from plate sales per year equate to a net loss of \$19,500.

Estimated Loss Tax Revenue from this bill is as follows:

New car dealers = 102  
Estimated vehicles not paying fees - 510  
Estimated tax, title and reg fees = \$400  
Estimated Revenue loss = \$204,000  
Estimated Revenue loss per biennium = \$408,000

**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.*

Additional costs associated with the estimated increase in plates are as follows:

Cost of the Plates (510 x \$2.00 ea) = \$ 1,020  
Mailing expenses (510 x \$1.89 ea) = \$ 943  
Registration cards expense (510 x \$0.21) = \$107  
Total cost for estimated plates = \$2,070 per year  
Total expenses per biennium = \$4,141

**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.*

Appropriations would need to remain consistent yearly as plates are lost, new ones ordered, tabs ordered, etc.

<b>Name:</b>	Glenn Jackson	<b>Agency:</b>	NDDOT
<b>Phone Number:</b>	328-4792	<b>Date Prepared:</b>	01/30/2009

Date: 2-5-09  
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2409

Senate Transportation Committee

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

Action Taken  Do Pass  Do Not Pass  Other

Motion Made By Senator Nodland Seconded By Senator Nething

Senator	Yes	No	Senator	Yes	No
Chairman Senator Gary Lee	✓		Senator Tom Fiebiger	✓	
Senator George Nodland	✓		Senator Richard Marcellais	✓	
Senator Dave Nething	✓		Senator Tracy Potter		

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Marcellais

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

**REPORT OF STANDING COMMITTEE (410)**  
February 5, 2009 11:48 a.m.

**Module No: SR-23-1753**  
**Carrier: Marcellals**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2409: Transportation Committee (Sen. G. Lee, Chairman) recommends DO NOT PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2409 was placed on the Eleventh order on the calendar.**

2009 TESTIMONY

SB 2409



Senate Bill 2409

Senate Transportation Committee

Honorable Senator Gary Lee, Chairperson

From Senator Larry Robinson

# 1

Mr. Chairperson and members of the committee. I apologize for not being able to be in attendance today to testify in support of Senate Bill 2409. The bill I before you comes at the request of a local small town automobile dealer. The bill is designed to allow local auto dealerships to rent vehicles without having to pay the sales tax in order to license the vehicle. In the example my auto dealer shared with me, for him to rent a \$10,000 vehicle, he would first have to pay the \$500 in sales tax so he could license the vehicle. With that type of investment, it is not economically viable to rent out a vehicle. The dealer noted that the ability to rent vehicles to his customers on a short term basis would provide a valuable service to his customers and would have a positive impact on sales. The inability to do so, forces him to direct his customers to larger communities to access a rental vehicle.

Section 2 of Senate Bill 2409, provides the new language to address this issue.

Mr. Chairperson and members of the committee, I have visited with representatives of the Tax Department on this proposed bill. They may well offer an amendment to limit the scope of this bill. I would be supportive of efforts to improve the bill draft. In my absence, there will be testimony in support of the bill from the industry.

I would ask that you give Senate Bill 2409 a good hearing and ultimately give the bill a Do Pass recommendation.

Thank you.

  
Senator Larry Robinson

#2

**TESTIMONY  
SENATE BILL 2409  
SENATE TRANSPORTATION  
FEBRUARY 5, 2009**

Mr. Chairman and members of the committee. My name is Bob Lamp and I am appearing on Senate Bill 2409 on behalf of the Automobile Dealers Association of North Dakota which consists of the franchised new car dealers in our state. This is a very difficult bill for our dealers since having a tax exemption on vehicles in a rental fleet would be a positive development. However, our dealers have other concerns with the bill.

Senate Bill 2409 amends, in part, Section 39-22-17 of the North Dakota Century Code relating to the use of dealer plates. Since 1999, the Automobile Dealers Association has worked extensively with regulators in an attempt establish rules governing the use of dealer plates. Over several legislative sessions, a number of changes have been made in law to assist the Department of Transportation with more clear enforcement criteria. These changes have hopefully resulted in fewer problems with the use of dealer plates.

If you look at subsection 1 of 39-22-17, you will find specific reference as to how dealer plates may and may not be used. It specifically states that the dealer plate may not be used by a person unless they are directly involved in the operation of the dealership. This prohibits a customer from using a rental vehicle on a dealer plate. If a vehicle is put into a dealer's rental fleet, it must be titled and appropriate motor vehicle excise tax paid.

It is our concern that changing the law will open up a whole new arena of dealer plate issues. Will this bill require the issuance of a rental specific plate? (The legislature eliminated two types of dealer plates in the 2007 session). How would law enforcement verify a bona fide rental? Can a non franchised dealer put a new vehicle into rental service without paying motor vehicle excise tax on the unit? Is there a limit to the number of rental plates a dealer can acquire? Would the use of a rental plate delay the purchase and payment of motor vehicle excise tax? What happens to existing rental units on which motor vehicle tax has been paid?

Mr. Chairman, without clarification on these questions we cannot support the concept found in Senate Bill 2409. Thank you for giving us the opportunity to express our opinion on this bill.

Robert L. Lamp, President  
Automobile Dealers Association of North Dakota

# 3

**SENATE TRANSPORTATION COMMITTEE**  
**February 5, 2009, 10:45 a.m. Lewis And Clark Room**

**North Dakota Department of Transportation**  
**Glenn Jackson, Director Motor Vehicle Division**

**SB 2409**

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Good morning, Mr. Chairman and members of the committee. I'm Glenn Jackson, Director of the Motor Vehicle Division at the North Dakota Department of Transportation. Thank you for giving me the opportunity to present information to you today.

The ND DOT opposes SB2409. NDCC 39-22-17.1 states, "A dealer number plate may be used on any vehicle owned by the dealership and used in direct functions of demonstrating, buying, or selling vehicles. Dealer plates may not be used on a service vehicle or a vehicle used in other functions of the business, sold units in the possession of the purchaser, by family members not residing at the dealer's residence, or by a person not directly involved in the operation of the dealership."

Currently, the singularly most important tool we have to enforce dealer statutes in the ND Century Code is the means to enforce their use of dealer plates. The change expressed in this bill contradicts in its entirety current statute. As such, it removes the department's ability to enforce standards and rules established for the dealer industry and will prevent the department from providing effective oversight of the industry.

For example, today when a law enforcement officer stops a vehicle he questions is utilizing a dealer plate legally, he can determine the reason the driver is using a dealer plate for the activity. If it is for a purpose other than one directly involved in dealer activities as listed above, the patrolman can issue a citation and provide information to the department. The department can then investigate and hold the dealer accountable either through a fine or suspension of the dealer's license - all under the statute listed above. Under this bill, all the driver has to do is say they are renting it and there is nothing that can be done to prevent the non-dealer related activity.

Dealer plates are important for at least two reasons. First, because they allow the dealer to conduct business without paying excise taxes, and registration fees, and second, because they provide direct evidence of this activity to enable industry oversight. Under the proposed change, all a dealer would need to do is pay \$20 for a plate and he can put it on any vehicle in the inventory and rent it. No taxes paid, no registration paid, no way for the department to ensure abuse of these plates does not occur.

This change will have an additional and direct affect in that it will place the automobile dealer industry in direct competition with the rental vehicle industry. Currently, rental vehicles fully pay taxes and registration for their vehicles. Under this change, all they would need to do is obtain a dealer's license and they can begin turning over their inventory with cheaper used vehicles purchased from sales and never pay taxes or registration fees.

Lastly, with the current dealer licensing process, a dealer cannot set up a display of vehicles for sale in another dealer's area except temporarily with permission, such as at a show. Under this bill, a dealer could rent vehicles to individuals in cities all over the state which were, in fact, for sale, and there would be no way to prevent this activity.

In summary, this change would simply reduce the auto dealer industry into a state of chaos with no oversight. It would eliminate the department's ability to enforce dealer statutes effectively. It would also push the automobile dealers into a different industry without a fair cost for entry into that industry. For these reasons, the department urges the committee to not pass this bill.

Thank you, Mr. Chairman. I'll answer any questions you may have.