

2009 SENATE TRANSPORTATION

SB 2429

# 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2429

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: February 6, 2009

Recorder Job Number: 8893

Committee Clerk Signature

*Jody Hauge*

Minutes:

**Senator Lee** called the Senate Transportation committee to order. All members were present.

Senator Lee opened the hearing on SB 2429 relating to a violation of hours of service provisions for commercial drivers.

**Lieutenant Kyle Kirchmeier** of the North Dakota Highway Patrol introduced and testified in support of SB 2429. He explained the bill and how it would change the current law. Written testimony #1.

**Senator Nething** asked Kyle to give an example on how this applies.

**Kirchmeier** currently in the state law, it has the old ten and fifteen hour rule. This changes it to where you can have eleven hours of driving time and after the driving time you have to have 10 hours of off duty time, then you can work up to a maximum of a fourteen hour day. After fourteen hours then you would have to have 10 hours off. If you drive eleven hours and work sixteen hours you are not in violation for that day until you start driving.

**Senator Nething** said we have to start over. If I'm a driver for a truck company and I get in my truck at 8 o'clock under the current law how long can I drive.

**Kirchmeier** answered eleven hours.

**Senator Nething** said he was having trouble picturing this and asked Kyle to explain the cycle again. Explain the current law and then the changes.

**Kirchmeier** tried to clarify what they were trying to do. He said the reason for this change is just to bring us into the same language that the Federal regulations have.

**Senator Fiebiger** asked if each violation in lines 10-13 was a separate violation.

**Kirchmeier** said that is correct.

**Senator Lee** asked a question on line 9.

There was much discussion and much confusion on the current rules and the new rules that they are promoting.

**Kirchmeier** continued his explanation. It doesn't say you can't work it just says you can't drive. He said the changes really don't change the law it just corrects wording to fit federal rules. He proposed some wording for an amendment. Attachment #2.

**Tom Balzer** of the North Dakota Motor Carriers Association testified in support of SB 2429.

Mr. Balzer gave the committee a history lesson on the laws and on this piece of legislation.

He would agree that line 9 needs some work. He said that this law only affects intrastate driving not in state driving. In the state, it still is fifteen hours.

**Senator Lee** asked if he were going to drive into SD, different rules would apply different from when he is ND.

**Balzer** said once you cross the border of the state, it is considered interstate commerce and the Federal Laws apply.

**Senator Potter** asked Mr. Balzer if he agreed with the proposed amendment.

**Balzer** said that he thought it would elevate some confusion.

**Senator Lee** said that the intern was preparing an amendment and we will wait for that before doing anything with this bill.

Closed the hearing on SB 2429.

# 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2429

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: February 6, 2009

Recorder Job Number: 8895

Committee Clerk Signature

Minutes:

**Senator Lee** called the Transportation Committee to order to do committee work on SB 2429.

**Lieutenant Kyle Kirchmeier** of the Highway Patrol gave the committee the suggested amendment. Attachment #1

**Senator Nething** moved the amendment drafted by the intern for the Highway Patrol.

**Senator Nodland** seconded.

Roll call vote: 6-0-0.

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

**Senator Nething** seconded.

Roll call vote: 6-0-0

**Senator Nodland** is the carrier.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2429

Page 1, line 9, remove the overstrike over "~~since the last~~", after "eight" insert "ten", and remove the overstrike over "~~hours off duty~~"

Renumber accordingly

Date: 2-6-9  
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2929

Senate Transportation Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  Other

on Amendment

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

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) 6 No 0

Absent 0

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

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

Date: 2-6-09  
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2429

Senate Transportation Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  Other

as amended

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) 6 No 0

Absent 0

Floor Assignment Senator Nodland

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



**REPORT OF STANDING COMMITTEE**

SB 2429: 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). SB 2429 was placed on the Sixth order on the calendar.

Page 1, line 9, remove the overstrike over "~~since the last~~", after "eight" insert "ten", and remove the overstrike over "~~hours off duty~~"

Renumber accordingly

2009 HOUSE TRANSPORTATION

SB 2429

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2429

House Transportation Committee

Check here for Conference Committee

Hearing Date: 03/19/09

Recorder Job Number: 11273

Committee Clerk Signature

*Janette Cook*

Minutes:

**Representative Gruchalla, District 45, introduced SB 2429.** It is a bill that gets North Dakota in line with the new federal requirements.

**Lieutenant Kyle Kirchmeier, Motor Carrier Operations Commander with the North**

**Dakota Highway Patrol, spoke in support of SB 2429.** See attachment #1. He explained that this law will make the change from the old rule of 10 and 15, which is now 11 and 14.

**Representative Delmore:** If a driver is someone who is going to deliver merchandise, how does that work with the consecutive hours of driving? Is the delivery time also considered part of that?

**Lieutenant Kyle Kirchmeier:** Yes, but there are exceptions within 150 air miles. Also, this only affects interstate, not intrastate.

**Representative Delmore:** So, if I take a load to Minneapolis and have to wait five hours to dump that load, how does that affect my driving time?

**Lieutenant Kyle Kirchmeier:** It counts toward your 14 hours for that day.

Chairman Ruby: Can they put it in their log book, that they used that time to sleep?

**Lieutenant Kyle Kirchmeier:** They can put it into "sleeper berth", but if there is only 4 or 5 hours, you can't break up the time for "sleeper berth" you have to have eight hours before you

can use it. You have to have eight hours of sleeper berth and you can combine it with two hours off. If you only have a four hour period in there, it won't do the driver any good.

**Chairman Ruby:** If the federal law changed in 2005, why didn't we change this in the 2007 session?

**Lieutenant Kyle Kirchmeier:** Because there was a court ruling filed against hours of service, and the final ruling just came out in January from the Federal Motor Carriers Association.

**Representative Weiler:** Are we losing any funding if we do not pass this?

**Lieutenant Kyle Kirchmeier:** No, there is no money attached to this. We are just changing it to become compliant with what the federal rules are.

**Chairman Ruby:** So, states have the right to deviate from the federal?

**Lieutenant Kyle Kirchmeier:** I think, if it isn't changed, we will have issues enforcing it as far as a fine because we wouldn't be in compliance with what the federal regulations. This doesn't affect intrastate driving, only if you are driving over 150 air miles, then you have to comply with the federal regulations. This is nationwide.

**Tom Balzer, North Dakota Motor Carriers Association, spoke in support of SB 2429** to bring us into compliance with federal regulations. There has been a lot of disagreement over this. We have finally reached an agreement. This would allow the highway patrol to enforce the federal requirements on interstate movements. Intrastate the cap is fifteen hours, we have reasons that we want that there from the energy and agriculture perspective. This is standard language. It is a simple change to bring us into compliance with federal regulations.

**Representative Gruchalla:** How many states were involved in the lawsuit that was pending?

**Tom Balzer:** There were a number of plaintiffs that were involved. There were public citizens, there was Mothers Against Tired Truckers, owner/operators were in it. The issue was that increased an hour, but they made longer rest time. They said that you had to have stay in the

sleeper berth for eight hours. That was a contentious issue for the owner/operators because they thought they could drive for five hours, sleep for four, and drive another six, and they would be more alert and better prepared. The lawsuits were among private organizations.

**Chairman Ruby:** As far as your members, do they prefer following this?

**Tom Balzer:** We like the fact that we have an extra hour to drive. We don't like the fact of the eight hour sleeper berth, but that is not in here. We are looking for finality on the issue. We ran for four years not really knowing what the rules were. That was difficult for us. This says, if you drive eleven hours, before you get behind the wheel of the vehicle for work purposes, you have to take a solid ten hours off. If you come to work, and it takes you three hours to load your truck, you drive for eleven hours, that makes your fourteen. Then you have to take ten hours off before you can drive again. You can go back to work. You can work 24 hours, but only eleven of those hours can be driving. Before you drive again, you have to take a full ten hours off. We think these regulations are pretty solid. There has been a lot of research that has gone into these.

**Representative Frantsvog:** If you are only a driver, could you drive eleven and take ten hours off, then drive eleven again and take ten off. Could you consistently do that?

**Tom Balzer:** Yes, but there is a provision in the federal code that the owner of a trucking company is liable and finable and criminal by putting someone on the road that they know is fatigued. If you have someone who has been running that kind of schedule for a long period of time, you have to bring them off the road. There is also a weekly cap, you can't drive more than 70 hours in a seven day period. That is in state law.

**There was no more testimony on SB 2429.**

The hearing was closed.

**Representative R. Kelsch moved a Do Pass on SB 2429.**



**Representative Delmore seconded the motion.**

A roll call vote was taken. **Aye 13 Nay 0 Absent 1**

**The motion passed.**

**Representative Gruchalla will carry SB 2429.**



Date: 3/19/09

Roll Call Vote #: \_\_\_\_\_

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2429

House TRANSPORTATION Committee

Check here for Conference Committee

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

Action Taken  Do pass  Don't Pass  Amended

Motion Made By Kelsch Seconded By Delmore

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman	✓		Representative Delmore	✓	
Rep. Weiler - Vice Chairman	✓		Representative Griffin	✓	
Representative Frantsvog	✓		Representative Gruchalla	✓	
Representative Heller	✓		Representative Potter	✓	
Representative R. Kelsch	✓		Representative Schmidt	✓	
Representative Sukut	✓		Representative Thorpe	✓	
Representative Vigasaa	✓				
Representative Welsz	#				

Total Yes 13 No 0

Absent 1

Bill Carrier Gruchalla

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

**REPORT OF STANDING COMMITTEE (410)**  
March 19, 2009 1:06 p.m.

**Module No: HR-50-5354**  
**Carrier: Gruchalla**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2429, as engrossed: Transportation Committee (Rep. Ruby, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2429 was placed on the Fourteenth order on the calendar.**



2009 TESTIMONY

SB 2429

Senate Transportation Committee  
Senate Bill 2429  
Submitted by  
Kyle Kirchmeier, NDHP

# 1

*Same given to House*

February 6, 2009

Good morning, Mr. Chairman and members of the Senate Transportation Committee, I am Lieutenant Kyle Kirchmeier, Motor Carrier Operations Commander with the North Dakota Highway Patrol. I appear today in regard to SB 2429 which is a bill to amend subsection 10 of section 39-06.1-06 of the North Dakota Century Code relating to a violation of hours of service provisions for commercial drivers.

The North Dakota Highway Patrol under administrative code Article 38-04 adopted Motor Carrier Safety Regulations, effective October 1, 1983. Title 49, Code of Federal Regulations, including amendments are adopted by reference. Included with this is Part 395, which relates to hours of service by drivers. Section 395.3 (a) (1) Maximum driving time states no driver shall drive more than 11 cumulative hours following 10 consecutive hours off duty; or (2) for any period after the end of the 14<sup>th</sup> hour after coming on duty following 10 consecutive hours off duty.

This amendment corrects section 39-06.1-06, subsection 10 (a) to coincide with the current Federal Motor Carrier Safety Regulations that became effective in 2005.

This concludes my testimony. Mr. Chairman, I would be happy to answer any questions you or the committee members may have.

#2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2429

Pg. 1, line 9, remove the overstrike over "~~since the last~~", after "~~eight~~" insert "ten", and remove the overstrike over "~~hours off duty~~"

Renumber Accordingly

**SECTION 1. AMENDMENT.** Subsection 10 of section 39-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

10. For a violation of subsection 3 of section 39-21-46, a fee established as follows:

- a. Driving more than ~~ten~~ eleven hours since the last ~~eight~~ ten hours off duty, driving after ~~fifteen~~ fourteen hours on duty since the last ~~eight~~ ten hours off duty, driving after sixty hours on duty in seven days or seventy hours in eight days, no record of duty status or log book in possession, failing to retain previous seven-day record of duty status or log book, or operating a vehicle with four to six out-of-service defects, one hundred dollars;