

2013 SENATE TRANSPORTATION

SB 2042

2013 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2042
January 11, 2013
Recording Job Number 17096
 Conference Committee

Davis & Perez

Explanation or reason for introduction of bill/resolution:

To amend and reenact section 39-05-20.3 of the North Dakota Century Code relating to the refusal to issue a certificate of title for unsafe and unfit vehicles.

Minutes:

Attached testimony: #1

Chairman Senator Oehlke opened the hearing on SB 2042

Timothy J Dawson Legislative Council, staffed the Interim Transportation Committee
I am here to explain the bill draft and not for or against the bill. This bill is a redo of a last session's bill 2076. The high points are: the department may not issue a certificate of title, or transfer a certificate of title, if the vehicle is mechanically unfit or unsafe. The new language defines what is unfit or unsafe: if the vehicle has an out of state marked title that includes a certificate for destruction or a notation on the title that the vehicle is scrap, parts-only junk, un-repairable, non-rebuildable, a dismantler, or any other similar notation. The idea is to prevent people from bringing wrecked cars into the state, having a title issued and having then resold in the state. The largest problem would be deployed airbags and vehicles that have been flooded. State would become a haven for these vehicles if we did not prevent the issuance of a certificate of title.

Linda Sitz, Director of the Motor Vehicle Division at the North Dakota Department of Transportation (DOT)

The intent of this bill is to codify the policy, which has been followed for fourteen years, to protect North Dakota consumers and dealers. This legislation will give North Dakota the authority to not put back on the road vehicles that have been deemed non-roadworthy in other states. See written testimony 1.

Vice Chairman Armstrong Is there a mechanism now whereby an unfit vehicle can become fit to drive? Like a rebuilt.

Linda Sitz We would follow NMVTIS (National Motor Vehicle Title Information System); if VIN is flagged we would not allow that vehicle on the road, no matter what modifications have been done

Senator Sitte How do you know if a vehicle comes in from out of state and whether or not it was in a flooded situation. Is this really going to protect the consumer?

Linda Sitz: We hope that running vehicles with the VIN through the NMVTIS system can stop as many vehicles as possible from getting on the roads, we can't guarantee a hundred percent that we can protect the citizens of the state.

Chairman Oehlke Being in the insurance world, as I recall, the insurance company has to pay out in many flooded instances it is a total loss so they pay out a total claim and at that point the title gets marked Then the consumer should be able to know because the information would be on the title. What we are trying to do is limit that type of vehicle in North Dakota. But it seems this bill is pulling in other things that were not intended.

Patrick Ward I represent State Farm Insurance and the domestic insurance companies. We support this bill. Every vehicle has a VIN number, unless tampered with; you know the history of that vehicle from checking that number. For vehicles that have been in North Dakota it is not a problem; same thing with out of state vehicles with a clean title. Every state has a process for marking salvaged titles or damaged titles on vehicles. When you look at the language that is added they are using the worst case scenario. We are required by law that whenever a vehicle is totaled we have to make sure those vehicles go to a salvage yard. In North Dakota we have 3 ways of stamping the title: previously damaged, salvaged or junk. Junk is non rebuildable. I think what the bill is trying to clarify is that the worst case scenario, vehicles that are nonrebuildable, the title stays that way. The insurance industry does not want ND to become a title washing state. Previously damaged vehicles can be rebuilt but when you put them on the road they have a title that lets everybody know that vehicle has been damaged. Hail is excluded from this statute. Rebuilt vehicles are certified by the Highway Patrol. This bill will not infringe on somebody rebuilding their vehicle in most cases, only if brought from out state marked as junk or unrebuildable

No additional testimony in favor.

Linda Sitz I would suggest that you give us an opportunity to go back and get some of these questions answered for you.

No opposing testimony. Hearing closed.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2042
January 18, 2013
Recording job number 17396
 Conference Committee

Wois & Pérez

Explanation or reason for introduction of bill/resolution:

To amend and reenact section 39-05-20.3 of the North Dakota Century Code relating to the refusal to issue a certificate of title for unsafe and unfit vehicles.

Minutes:

Attached testimony #2

Chairman Oehlke Opened the hearing continuation of SB 2042

Linda Sitz Director of the Motor Vehicle Division at the North Dakota Department of Transportation (DOT) Wanted to know if committee members had any questions regarding the handout distributed (written testimony 2) earlier this week addressing the questions made at the initial hearing.

Vice Chairman Armstrong Move a do pass

Senator Axness Second

Discussion followed regarding similar bills submitted last session, which did not pass, and intent behind those bills

Roll call vote: 7 yes 0 no 0 absent not voting

Carrier Vice Chairman Armstrong

**2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL NO. 2042**

Senate TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Vice Chairman Armstrong Seconded By Senator Axness

Senators	Yes	No	Senator	Yes	No
Chairman Dave Oehlke	X		Senator Tyler Axness	X	
Vice Chairman Kelly Armstrong	X		Senator George Sinner	X	
Senator Margaret Sitte	X				
Senator Tim Flakoll	X				
Senator Tom Campbell	X				

Total (Yes) 7 No 0

Absent And not voting 0

Floor Assignment Vice Chairman Armstrong

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

REPORT OF STANDING COMMITTEE

SB 2042: Transportation Committee (Sen. Oehlke, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2042 was placed on the
Eleventh order on the calendar.

2013 HOUSE TRANSPORTATION

SB 2042

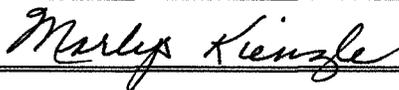
2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

SB 2042
03-07-13
Job # 19559

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to the refusal to issue a certificate of title for unsafe and unfit vehicles.

Minutes:

Testimony Attachment #1

Chairman Ruby opened the hearing on SB 2042.

Tim Dawson, Legislative Management, explained the bill. He does not support or oppose the bill. He described the bill and stated that this bill came from the request of the Department of Transportation and the National Data Base that was being built for vehicles that were not road worthy in all states.

Chairman Ruby: Do we have this requirement for vehicles that are in state that have a certain mark?

Tim Dawson: You are unable to title the vehicle if it is unfit or unsafe in this state. The other bill that was discussed was for in state and this bill is for out of state. This bill is a redo of SB 2076 from last session and that is one of the reasons it did not fare well is that is the need to find exception where people could bring in an unfit vehicle from another state.

Chairman Ruby: For better clarification for the committee and for the record, on line 7 where it goes for shall to may seems more permissive but with the word not afterwards it means exactly the same thing.

Tim Dawson: Yes this is a form of language style.

Linda Sitz, Director of Motor Vehicle Division, North Dakota Department of Transportation, spoke to support SB 2042. Written testimony was provided. See attachment #1.

Representative Vigesaa: Do shall not and may not mean the same thing. Wayne Stenjen

Linda Sitz: They are the same thing.

Chairman Ruby: Do we need to put language in the bill that will assist you in enforcement?

Linda Sitz: I assume that you are talking about lines 14 -17. We specifically put those lines in because we are seeing some vehicles from other states coming in with those notations. To keep these vehicles off the roads we need these changes.

Representative Delmore: Do you currently have access to all of the titles and label them in these ways that they are unfit to be on the road?

Linda Sitz: Currently, when North Dakota receives a title from another state that has one of these brands on them, we do not put in the system we run the Invididis Check and find the history of that vehicle and if it is branded as such in those other states, we do not brand it in North Dakota.

Representative Delmore: How will this bill change that policy?

Linda Sitz: This bill will give us Law to back up our decision because we are following our policy and it is a North Dakota Century code.

Chairman Ruby: Are these vehicle branded salvaged.

Linda Sitz: That is correct.

Chairman Ruby: If one is branded non - repairable and was repaired could this be put back on the roads.

Linda Sitz: If they were non-repairable North Dakota would not put this back on the roads.

Representative Fransvog: If a vehicle comes in and has been branded salvage only, is there some way you follow up later that you see that nothing has been done with the vehicle but salvaged?

Linda Sitz: If a vehicle comes in and is labeled salvage, it has to go through the inspection process of the Highway Patrol.

Representative Fransvog: If the vehicle is salvage only does that vehicle have to be dismantled and sold as parts?

Linda Sitz: If it salvage only and they are going to use it for parts we do not get feed back that this is what they did. We would just keep the branding the same.

Representative Delmore: Do we treat out-of-state vehicles different than in-state?

Linda Sitz: Since North Dakota does not brand the vehicles these brandings, we would have to say we treat them different.

Representative Delmore: Is there a way to make sure they are off the road?

Linda Sitz: The process in North Dakota is if someone wants to put a vehicle on the road that is branded salvage they would have to go through the inspection process.

Representative Delmore: Are you saying the out of state does not have to go through that process?

Linda Sitz: They follow that same guideline.

Representative Vigesaa: If a vehicle is totaled it is called salvaged. Once it is rebuilt and passes the inspection it can go back on the road and the title will state previously salvaged. If they are not repairable they are unable to go back on the road.

Chairman Ruby: We don't have a distinction that would mean scrap do we? All we have is salvage?

Linda Sitz: Correct

Nicky Kevine: Auto Recycling Association in North Dakota: Our concern was about the wording of "may" and we wanted the word "shall not", but if the wording would be a definite not we would like it better. It is very easy to get these vehicles back on the road.

The hearing is closed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

SB 2042
03-07-13
Job # 19577

Conference Committee

Committee Clerk Signature *Marly King*

Minutes:

Chairman Ruby: Opened the meeting for SB 2042.

Rep Drovdal: Made a motion for Do Pass on SB 2042.

Rep Gruchalla: Seconded the motion

DO PASS Yes 11 No 1 Absent 2 Rep Vigasaa is carrier.

Date: 3-7-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB2042 Job 19577**

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt
 Amendment

Rerefer to Appropriations Reconsider

Motion Made By Drovdal Seconded By Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	✓		Rep. Lois Delmore	✓	
Vice Chairman Mark Owens	A		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker	✓		Rep. Kylie Oversen	✓	
Rep. David Drovdal	✓				
Rep. Robert Frantsvog	✓				
Rep. Brenda Heller	✓				
Rep. Curtiss Kreun	✓				
Rep. Mike Schatz	A				
Rep. Gary Sukut	✓				
Rep. Don Vigesaa	✓				
Rep. Robin Weisz		✓			

Total (Yes) 11 No 1

Absent 2

Floor Assignment Vigesaa

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

REPORT OF STANDING COMMITTEE

SB 2042: Transportation Committee (Rep. Ruby, Chairman) recommends DO PASS
(11 YEAS, 1 NAYS, 2 ABSENT AND NOT VOTING). SB 2042 was placed on the
Fourteenth order on the calendar.

2013 TESTIMONY

SB 2042

Senate Transportation COMMITTEE
January 11, 2013 – 9:00 a.m. - Lewis and Clark

North Dakota Department of Transportation
Linda Sitz, Director of Motor Vehicle Division
Senate Bill 2042

Mr. Chairman and members of the committee - I'm Linda Sitz, Director of the Motor Vehicle Division at the North Dakota Department of Transportation (DOT). Thank you for giving me the opportunity to present information to you today.

The Interim Transportation Committee and DOT worked on this bill together.

The intent of this bill is to codify the policy that has been followed for 14 years to protect North Dakota consumers and dealers. By enacting this legislation it gives North Dakota the authority to NOT put back on the road vehicles that have been deemed non-roadworthy in other states.

Approximately 20 states use the following titling brands; Scrap, Parts Only, Un-repairable, Non-rebuildable, Certificate of Destruction, and Dismantler. States assigning these titling brands means the motor vehicle cannot ever be re-titled or registered for on road operations.

This bill would put into law a DOT Motor Vehicle policy that has been followed since 1998 to recognize brands such as *scrap, parts-only, junk, unrepairable, nonrebuildable, certificate of destruction, dismantler* or similar notations indicating the vehicle cannot be titled and registered for use on our public roadways.

The National Motor Vehicle Title Information System (NMVTIS) provides states with a mechanism to instantly check out of state vehicle title records to verify the accuracy and legitimacy of title information. This 50-state instant search protects states from issuing incorrect titles.

North Dakota DOT MV does not currently title any of these types of brands and the only brand similar to these out of state brands would be the "Junk" brand.

Mr. Chairman, I would be happy to answer any questions at this time. Thank you.

**Answers to Questions on SB 2042 Hearing
January 14, 2013**

1. How does one obtain a title for a vehicle that “sits in the shelter belt” for some time and then the owner wants to re-title it? The process is found in Administrative Code Title 37: Article-12-04 “Procedure for Obtaining Certificate of Title for Untitled Vehicles.”

37-12-04-01. Procedure—If a North Dakota resident owns a vehicle for which the resident is unable to obtain a proper certificate of title, the Motor Vehicle Division will use the following forms and procedures to determine ownership of a vehicle and issue a certificate of title:

- A check of the records of the Motor Vehicle Division, as well as the records of other appropriate states will be conducted to determine if a certificate of title has previously been issued.
- If no record of a previous certificate of title is found, the Motor Vehicle Division will issue a North Dakota certificate of title to the applicant upon receipt of:
 - A notarized bill of sale
 - A vehicle statement of ownership from the applicant (form SFN 2903)
 - An inspection of the vehicle by the North Dakota Highway Patrol (form SFN 2486)
 - Appropriate title fee, license fees, and motor vehicle excise tax.
- In all cases where there is no record of a previous title, the Motor Vehicle Division will check the national crime information center (NCIC) computer to determine that the vehicle is not listed as a stolen vehicle.
- a. If a record of a previous certificate of title is found, the Motor Vehicle Division will advise the applicant of the name and address of the last owner of the vehicle but will take no further action to issue a certificate of title. The applicant must obtain the certificate of title from the last owner or obtain an order of the court awarding ownership to the applicant. The foundation of this decision process is based on NDCC 39-05-19 - Obtaining certificate of title for vehicle when ownership obtained by other than voluntary means and NDCC 39-05-20 sub 1. Transferee may obtain

new certificate of title upon inability to obtain old certificate - proof of ownership - appeal.

Disclaimer—Due to the implementation of privacy laws, if there is a North Dakota record of the vehicle; (form SFN 51269) will need to be completed. An out-of-state vehicle title record search implemented by Motor Vehicle is obtained through teletype inquiries. The teletype inquiries frequently result in return vehicle responses which also include warnings in regards to dissemination of this vehicle information as being a violation of privacy laws in that state. When teletype responses provides a vehicle record, that state of record information is shared with the applicant who then is referred to the state which holds the vehicle record to proceed according to the laws and policy of that state.

2. **How does one get an antique vehicle roadworthy?** Motor Vehicle Refers to Article 37 - Chapter 37- 12 Special Motor Vehicles. This chapter includes General Considerations; Body Requirements; Chassis Requirements; etc. Article 37-12-02-01 number 3, states "Nothing contained in this chapter shall preclude the motor vehicle division director from requiring a certificate of inspection to ensure compliance with the standard".
3. **If a "Bob" (Johnny Cash Song) vehicle is created what is the current North Dakota process to get it titled and registered.**
 - If an existing VIN number is found on the body that VIN would be used to identify the vehicle. However if there was no VIN one would be assigned by Motor Vehicle or through North Dakota Highway Patrol.
 - If Motor Vehicle was informed that this is a reconstructed vehicle, we would request an inspection from the North Dakota Highway Patrol.
4. **If the vehicle is involved in a crash what is the current North Dakota process to make it road worthy.**

Scenario 1 – According to NDCC 39-05-17.2 - If a vehicle has sustained damage which equals or exceeds the greater of \$8,000 or 40% of pre-damaged retail value, once put back on the road the vehicle title will be branded as previously damaged.

Scenario 2 – According to NDCC 39-05-20.2 – If the damage is in excess of seventy-five percent the title for that vehicle will require a branding at salvage or previously salvage. Inspection determines the vehicle brand status. Once this type of vehicle passes inspection, the vehicle can become roadworthy.

A complete description of these processes can be found in NDCC previously quoted.

What would happen if we did not pass SB2042 this legislative session?

DOT would continue on following the Policy created in 1998 and not register any vehicles coming into our state with the Junk, Unrepairable, Non-rebuildable or similar notation.

If DOT were challenged we would handle each situation on a case by case basis. Also if we were challenged to title a junk or similar vehicle, DOT could create a document requiring the person titling the vehicle to complete a letter or form of indemnification to hold the state ND harmless in this titling transaction.

Having this in statute would create consistent processes and helps us avoid putting unsafe vehicles on the roadways.

Could MV be liable if a vehicle from another state comes in with a branded title and we put it on the roads and someone gets injured? We are not sure how Risk Management would stand on this issue.

#1

**HOUSE TRANSPORTATION COMMITTEE
March 7, 2013 – 10:00 a.m. – Fort Totten**

**North Dakota Department of Transportation
Linda Sitz, Director of Motor Vehicle Division**

SB2042

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