

2019 HOUSE TRANSPORTATION

HB 1539

2019 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1539
2/7/2019
#32381

- Subcommittee
- Conference Committee

Committee Clerk Signature Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A BILL relating to delivery of a certificate of title; and to provide a penalty.

Minutes:

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Chairman Ruby opened the hearing on HB 1539.

Representative Hoverson, District 3, spoke to support and introduce HB 1539. I had purchased a vehicle at an auction. I was in an accident and hadn't gotten my title transferred in 30 days through an unfortunate chain of events. The police officer asked for identification, and I didn't have the registration yet. I knew the title was past the 30 days. I gave him the title, and in a few minutes I was being handcuffed on Broadway. I was taken to jail and was finger printed. I couldn't believe this would happen for not having a title transferred. They wanted to take my picture and put it on the state computer. I asked if I could refuse. They went to get someone to talk to me. I called a lawyer, and he told me it was a first class misdemeanor; it is protocol. Everyone kept telling me that this was protocol. There wasn't any discernment allowed for the police officer. I did get out of it after a year of probation. I was treated like an animal. After my wife paid my bail, I was asked to sign a sheet that said that I was not harmed. The officer asked me if I wasn't being a little ridiculous? I told them that I didn't think that I was the one being ridiculous. I checked with the Chief of Police and down the line, and all they could tell me was that, "This is a legislative issue."

I think that if this is happening to people, it is excessive. My bill has to do with reducing the consequences of having a late title from a Class B Misdemeanor to an infraction. I just picked a \$250 fine because it seems be consistent with other infractions of that nature. I'm not really concerned with the fine; I would be fine with any amendment. I just don't want this to happen to anyone else. I haven't heard any compelling reasons for this.

Even without my personal testimony, I think that the penalty is excessive.

Representative Kading: Do you know how many times this might happen every year?

Representative Hoverson: I do know of other similar stories since this happened to me.

There was no further support for HB 1539.
There was no opposition on HB 1539.

Representative Paur: I think it is a common practice for a dealer to hold on to the title of a traded in vehicle, so he will not have to pay excise tax on it. Is that correct?

Lindi Michlitsch, Department of Transportation: I'm not sure why dealers hang on to their paperwork. They are required by this statute to deliver title in 30 days. So, we do have the ability to monitor that and work very closely with the dealers. I wasn't aware of the other situations that happen in the private sector with this law.

Representative Jones: How often have you heard a story like this coming up?

Lindi Michlitsch: We are not aware of any dealers being charged with a Class B Misdemeanor. I don't know if the State's Attorney's office would want to take that on. I was surprised to hear what happened in the testimony. The dealers do not have to title a vehicle in their name within 30 days, that is when it gets to the consumer. They have to provide us the title within 30 days of when they have sold it off of their lot.

Representative Weisz: If I purchase a vehicle to restore and then show up six months later to title it, will you turn me in?

Lindi Michlitsch: We don't have a process that notifies law enforcement.

Representative Kading: Does this section just apply to motor vehicles, or does it apply to trailers and other things?

Lindi Michlitsch: It would be anything that is required to be titled in 39.05, which is our titling statute.

Representative Paulson: Told a story that was similar to Rep. Hoverson's, in which the COP's first response was to arrest his son for having an un-transferred title.

Representative Owens: Don't window stickers say 45 days to 60 days.

Lindi Michlitsch: It is actually 75 days. When you get the sticker, you are supposed to have already made application to the Department of Transportation. The 75 days is to allow us to get it processed and mailed to the new owner.

There was no further neutral testimony on HB 1539.

The hearing on HB 1539 was closed.

Vice Chairman Rick C. Becker moved a DO PASS on HB 1539.

Representative Kading seconded the motion.

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

The motion passed.

Representative Kading will carry HB 1539.

Date: 2-7-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1539

House Transportation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Becker Seconded By Kading

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN RUBY	X		REP LAURIEBETH HAGER	X	
VICE CHAIR BECKER	X		REP KARLA ROSE HANSON	X	
REP JIM GRUENEICH	X		REP MARVIN NELSON	X	
REP TERRY JONES	X				
REP TOM KADING	X				
REP EMILY O'BRIEN	A				
REP MARK OWENS	X				
REP BOB PAULSON	X				
REP GARY PAUR	X				
REP ROBIN WEISZ	X				
REP GREG WESTLIND	X				

Total (Yes) 13 No 0

Absent _____

Floor Assignment Kading

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

REPORT OF STANDING COMMITTEE

HB 1539: Transportation Committee (Rep. D. Ruby, Chairman) recommends **DO PASS**
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1539 was placed on the
Eleventh order on the calendar.

2019 SENATE TRANSPORTATION

HB 1539

2019 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1539
3/8/2019
33444

- Subcommittee
 Conference Committee

Committee Clerk: Liz Stenehjem

Explanation or reason for introduction of bill/resolution:

A bill relating to delivery of a certificate of title; and to provide a penalty.

Minutes:

2 Attachment

Brief discussion of sentencing guidelines.

Representative Hoverson, District 3, Minot, North Dakota: This is a pretty tame bill, but there was an amendment request and I support it. Basically what this bill does is it deals with title transfers on vehicles. (shared personal story) My goal with this bill is that if this is happening to people, if this is the level of a late title and this is the protocol and there is no discernment. I asked that, at that level there is no discernment; some violations a police officer has discernment, they can apparently give you a warning or whatever, but this is not one of those cases. This bill passed the House all green, it simply lowers the penalty from a class B misdemeanor to an infraction and sets a dollar amount. And I do approve of the amendment.

Matthew Larsgaard, Automobile Dealers Association of North Dakota: Please see **Attachment #1** for proposed amendment. Please see **Attachment #2** for testimony.

Chairman Rust: Why do you suppose it was a class B misdemeanor to begin with?

Mr. Larsgaard: I have no idea.

Chairman Rust: That's a pretty healthy step up in the world of crime. I'm kind of thinking that there must have been a reason for that to begin with. Maybe when we have agency testimony one of those can enlighten us.

Mr. Larsgaard: The only thing I can think of is the stiffer the penalty, the more motivated an individual is to comply with the law.

Senator Bakke: Is thirty days enough? I was just thinking when you were laying out some of these scenarios; if someone is a truck driver and they won't be home for six weeks, then all of a sudden we're passed the thirty days. I'm just wondering is thirty enough?

Mr. Larsgaard: We think thirty days is adequate in order to just deliver title to the transferee. Because then what we have to start looking at is then there is a period of time once I have my title to the vehicle I just purchased, now I have a certain amount of time to apply for title with the Department of Transportation, then they will need some time to process that title application, issue the registration, license and title.

Chairman Rust: Any idea why it would be a class B misdemeanor?

Lindi Michlitsch, Director, Motor Vehicle Division, North Dakota Department of Transportation: I don't know why it was class B, but there are other sections within Title 39 that have, at least underneath the motor vehicle sections 39-04 and 39-05 where it is a class B misdemeanor. That's the only thing I can think of is that it's consistent with some of the other things that have to do with title fraud and altering a state form is one. Those are the two that I can think of off the top of my head that would be a class B misdemeanor.

Chairman Rust: Any problems with the amendment, moving from fifteen days to thirty days? It doubles the amount of time, but still a month goes by kind of quickly. But maybe for you guys that's too long.

Ms Michlitsch: We have no objections to the amendment.

Chairman Rust: You have no objection to the decrease in the penalty?

Ms Michlitsch: No we don't.

Senator Dwyer: There must have been more to the story, because courts can impose a misdemeanor and suspend it upon 30 days and it's not one your record, so I'm not sure what happened there. It seems if you're going to change it to an infraction you should just leave it be an infraction and let the court impose whatever is appropriate for that particular situation.

Brief discussion about changing from a class B misdemeanor to an infraction.

2019 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1539
3/14/2019
33756

- Subcommittee
 Conference Committee

Committee Clerk: Liz Stenehjem

Explanation or reason for introduction of bill/resolution:

A bill relating to delivery of a certificate of title; and to provide a penalty.

Minutes:

No Attachments

Chairman Rust: Brief review of bill and previous testimony.

Senator Dwyer: I feel fairly strongly that we should not adopt whatever's on page two of the bill. My reasons are as follows: first of all, we're elected to do the people's work we're not elected to do the work of an individual who doesn't like the outcome of a court case he got involved in. I can use my own self as an example, I got arrested once for fleeing and it was dismissed. But I didn't come to the legislature and say, hey I'd like to have the legislature change the penalty for fleeing. The young officer was in error and he admitted that and the court agreed. If every time somebody, particularly legislators was involved in some kind of a smaller infraction or a class B misdemeanor or something, decided to come the legislature and change it I just think it would be an inappropriate use of that legislative purgative. I also went through 39-05 and there are six other sections that have penalties; 39-05 is all about title registration. There's six other sections in the code that have penalties specifically listed and then there is another section of the code of chapter 39-05 that says if there isn't a penalty specifically listed for this entire chapter it's a class B misdemeanor. So I just think we should be reluctant and hesitant to change one section of this to an infraction because we heard one side of a story and I am convinced (I know courts are busy) but if we asked the other side to come in, we'd hear the other side of the story. We don't know what that side would be. I just don't think we should change penalties for this. I have one final reason, this section deals with transfer of title and let's just say I sell a vehicle to someone and I give them the title but they don't register it. They don't go in, and then they commit a crime, it's under my name. So there's reasons why titles should be transferred, there's reasons why we decided to have plates on both the front and the back (so law enforcement can see who owns the vehicle). But, there's reasons why the statute says we want these titles to be transferred in a relatively efficient manner so that law enforcement knows who owns them. So the reason why I passed out what I passed out is we have another issue that the Automobile Dealers Association of North Dakota brought up, they would like to change that from fifteen days to thirty-days. Which I think is a whole separate issue, because it's also in chapter 39-05 and since we're doing major amendments to HB 1407, I think we should add that change of fifteen-days to thirty-days to HB 1407 and then just kill this bill.

Senator Bakke: So you want to put the change from fifteen-days to thirty-days in HB 1407 and then kill HB 1539?

Senator Dwyer: I wouldn't make that recommendation except we're already making major amendments to that bill and so adding one more amendment to change something from fifteen-days to thirty-days is certainly not going to harm the chance of that passing, it's not going to harm the chances of the bill, it's not going to be a drag on the bill. We would want to see if we're going to adopt the amendments to HB 1407 before we take action on this bill.

Chairman Rust: I have some of the same concerns.

Senator Clemens: I'm wondering if we could ask Lindi if she would have comments on if it would make any difference to the DOT as far as moving this into one particular chapter or the other, because they are different chapters.

Chairman Rust: You wouldn't move it into a different chapter.

Senator Dwyer: It's the same chapter it's just a different section.

Committee had brief discussion about the different sections and how to amend HB 1407.

Ms Michlitsch: I don't believe that would be a problem. My understanding, based on what was said it would just be adding another section to bill HB 1407.

Senator Bakke: I kind of agree with you that by fixing the thirty-days we've taken that and lengthened the amount of time they have to get the title so do we need to then lower the penalty? Because we've given them twice as much time to fix the problem and get the title right? So that shouldn't be a problem.

Chairman Rust: What Senator Dwyer wants to do is he basically wants to kill the bill, but the thirty-days seems like a reasonable think so let's insert it into HB 1407 as a new section, since we're working on that bill.

Senator Patten: I think if I'm correct, Senator Dwyer's argument is consistency in law and I think changing this would take away some of that consistency and I'm not in favor of that either. So let's keep the consistency that we have in place right now, I like the idea of combining as well.

(12:15) Senator Dwyer: I move **Do Not Pass**

Senator Clemens: I **Second** the Motion

Roll Call Vote Taken:

6-0-0 Do Not Pass

Carrier: Senator Dwyer

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1539**

Senate Transportation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Senator Dwyer Seconded By Senator Clemens

Senators	Yes	No	Senators	Yes	No
Senator Rust - Chairman	X		Senator Bakke	X	
Senator Clemens - Vice Chairman	X				
Senator Dwyer	X				
Senator Fors	X				
Senator Patten	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Dwyer

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

REPORT OF STANDING COMMITTEE

HB 1539: Transportation Committee (Sen. Rust, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1539 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1539

HB 1539 # 1
3/8/19 pg 1

19.1072.01001
Title.

Prepared by the Legislative Council staff for
Representative Hoverson
March 6, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1539

Page 1, line 13, overstrike "fifteen" and insert immediately thereafter "thirty"

Renumber accordingly

House Bill 1539
Testimony before Senate Transportation Committee
Matthew C. Larsgaard, MBA
Automobile Dealers Association of North Dakota
10:00 a.m., March 8, 2019

3/3/19

Mr. Chairman and members of the committee, my name is Matthew Larsgaard, and I am appearing in support of the amendment to House Bill 1539 on behalf of the Automobile Dealers Association of North Dakota that consists of our state's franchised new car dealers.

Under current law, a motor vehicle owner who sells a vehicle to another individual must deliver the vehicle's title to the buyer within fifteen (15) days. In many instances, fifteen days is simply not enough time to deliver a title. The following are a few examples:

Many vehicles traded in to a dealer have a lien on them. Dealers will identify the payoff amount on the vehicle, and then remit payment to the lienholder. The lienholder typically deposits the payoff, waits for the funds to clear, submits an interdepartmental request to release the lien, and mails the title to the dealer. Finally, the title has to work its way through the mail system. In some cases, the lienholder is an out-of-state lender, which causes even more delay before the dealer receives the title. This whole process could take well over two weeks. In rare cases, even though the lien was released, the lender does not automatically send the title to the dealer. The dealer must then call the lender and specifically request the title. This issue alone could add an additional week to the process.

If a vehicle is sold on a Saturday, under current law, a lienholder will have only ten business days to remit the title to the new owner, as five of those days fall on the weekend. This problem is further exacerbated for small rural lenders and dealers that are short-staffed or have "title clerks" who get sick, take vacation, or experience other "life" issues.

In other instances, the lender releases the lien, but no one knows the location of the original title. Sometimes, the vehicle owner simply cannot find the title. In these cases, our dealers must request a duplicate title to the vehicle from the Department of Transportation. This process could easily take up to three weeks or longer, especially if we seek to attain a new title from another state's Department of Transportation. The problem is further aggravated by all of the privacy laws and scrutiny resulting from increased fraud and security issues.

Further, we have many customers who temporarily work in North Dakota, but do not live in North Dakota. In some cases, they purchase a vehicle but do not have the trade-in vehicle's title in hand. Either they must ask someone back home to find and mail the title, or they must wait until they return home to send it back to the dealer. In both cases, it may be difficult to deliver the title within a short period of fifteen days. The concept also applies to our out-of-state military personnel.

Mr. Chairman, we respectfully request you adopt the amendment and allow the transferor of a vehicle to have thirty (30) days to deliver the vehicle's title to the buyer.

Matthew C. Larsgaard, MBA
President/CEO
Automobile Dealers Association of North Dakota