

House Bill 1072
House Transportation Committee
Chairman Dan Ruby
January 7, 2021

Colonel Brandon Solberg, Superintendent
North Dakota Highway Patrol

Good morning Chairman Ruby and members of the House Transportation Committee. My name is Brandon Solberg, and I am the superintendent of the North Dakota Highway Patrol. I am here today to propose an amendment to House Bill 1072 which relates to electronic operator's licenses.

The North Dakota Highway Patrol supports the overall concept of a digital driver's license, and this technology has already been implemented or is being tested in several states. If this type of digital license technology is authorized in North Dakota for law enforcement and identification purposes as described in this bill, a physical license would likely still have to be issued to those who travel out-of-state or want to fly.

The proposed amendments would clean up potential conflicts and redundancies with existing law. NDCC 39-06-16 requires that a license be provided "upon demand" of a police officer, but the current bill language seems to indicate that an officer cannot retrieve or scan an electronic driver's license without the operator's permission. If an operator refused to provide a driver's license, they'd be in violation of 39-06-16.

The director of DOT's drivers license division, Brad Schaffer, clarified that the intent of section 4 was to indicate that an operator must log into an app to allow access to the electronic operator's license, but I believe it's unnecessary to explain in law how individuals access their license. For example, law would not direct individuals to open a purse or a wallet to access their physical license. Rather, the law would simply require that the operator produce a license in some fashion.

Based on the potential misinterpretation of the bill's language, section 4 could be eliminated and replaced with the proposed amendment to NDCC 39-06-16 which allows an electronic operator's license to be provided in lieu of a physical license.

Also, section 5 of the current bill could be eliminated. It currently states "the computerized licensing system must display... whether the officer has reasonable suspicion..." If someone is stopped by a peace officer, the officer has determined there is reasonable suspicion that a violation occurred. Citizens are protected by the highest authority of law. For example, the United States Constitution covers unreasonable search and seizure under the 4th Amendment, and there is case law from the United States Supreme Court which directs what law enforcement can and cannot do. If an operator believes the officer did not have reasonable suspicion, the operator would be able to contest the violation, and the judicial branch would decide. With these protections in place, the current bill language is redundant.

After working with DOT on an amendment, I believe the intent of section 5 was to explain how the digital driver's license software would function, but as I stated, adding this type of detailed information to law seems unnecessary. By removing sections 4 and 5 and amending 39-06-16, the goal of allowing individuals to be able to provide an electronic operator's license would be achieved without detailing how the future software would specifically function.

Being able to provide identification electronically would match the process allowed for providing proof of liability insurance in North Dakota, and it could likely expand in the future to areas like vehicle registration information. The motor carrier industry and law enforcement officers around the nation are currently transferring log book data electronically so the digital sharing of information is possible. The highway patrol will continue to work with DOT on successful implementation from a law enforcement standpoint if this project is supported legislatively.

This concludes my testimony, and I will stand for any questions.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1072

Page 1, remove lines 19 through 23

Page 2, remove lines 1 through 2

Page 2, after line 12, insert:

“SECTION 2. AMENDMENT. Section 39-06-16 of the North Dakota Century code is amended and reenacted as follows:

39-06-16. License to be carried and exhibited on demand.

An individual licensed to operate a motor vehicle shall have ~~the~~ a physical or electronic operator's license in the individual's immediate possession at all times when operating a motor vehicle and shall physically surrender or electronically provide the ~~an~~ operator's license, upon demand of any court, police officer, or a field deputy or inspector of the department. However, an individual charged with violating this section may not be convicted or assessed any court costs if the individual produces in court or in the office of the arresting officer a valid operator's license issued to that individual that is not under suspension, revocation, or cancellation at the time of the individual's arrest.”

Renumber accordingly