

House Bill 1098
House Transportation Committee
Representative D. Ruby, Chairman
January 8, 2021

Chairman Ruby and members of the House Transportation Committee, my name is Major Aaron Hummel, chief of staff for the North Dakota Highway Patrol. I am here to provide testimony in support of House Bill 1098, which was introduced at the request of the Highway Patrol.

The changes to sections 39-08-05, 08, 10, 11, and 13 through 16 of the North Dakota Century Code are being requested by the Highway patrol in collaboration with the North Dakota Department of Transportation.

The **SECTION 1. AMENDMENT** changes the term “accident” to “crash” as part of the Vision Zero initiative. The Highway Patrol supports the change in terminology, because there are predictable contributing factors to crashes while the term accident implies that the event occurred unexpectedly or by chance. This section also clarifies language relating to reporting by adding reference to NDCC 39-08-06 which is the requirement to provide immediate notice of the crash.

The **SECTION 2. AMENDMENT** provides clarification to what information must be provided if someone causes damage to another’s property as well as changes the term accident to crash.

The **SECTION 3. AMENDMENT** changes the term accident to crash as well as clarifies the way law enforcement is currently required to submit crash reports to the department of transportation.

The **SECTION 4. AMENDMENT** changes the term accident to crash.

In the **SECTION 5. AMENDMENT** there are two significant changes. The first would classify crash reports as exempt until they are final and received by the Department of Transportation (DOT). The original purpose of requesting the changes for the Highway Patrol was to streamline workflow for our agency. Currently, the DOT is the entity that prescribes the form and manner that crash reports can be completed and submitted by law enforcement. Because DOT maintains all crash report records, they are the main source for the public to request and receive a finalized copy of a crash report. As an agency, the Highway Patrol considers a crash report to be in draft form until it is officially submitted electronically to DOT. We do get requests for crash reports on occasion and try to route the public to DOT to obtain a copy of the report. Through current open records law, law enforcement agencies are required to provide the unofficial copy of the crash report to the requesting party. This amendment would streamline the process and help law enforcement avoid duplication of effort. Although the ability is there for us to charge a fee for the report, the Highway Patrol has not been charging these fees for several years. We get a low quantity of requests and charging the fees would likely cost more for the processing of the payment.

The Highway Patrol is in the process of streamlining our administrative staff, and we’re taking a close look at tasks that are completed. Processing crash report requests is one of those tasks. This bill would change any crash report held by an entity from an open record to an exempt

record, while the crash report that is required to be submitted to DOT would remain an open record. There are many instances when our troopers are working closely with families or insurance companies on serious crashes, and by classifying our records as exempt rather than confidential, we would still be able to provide that information. Also, the exempt status would allow law enforcement agencies who prefer to sell crash reports locally to continue to do so.

The second change revises NDCC 39-08-13 which currently states that for a payment of five dollars, a party to the crash, a party's legal representative, or the insurer of any party to the crash may receive the officer's "opinion" of the crash report. In application, I believe the term "opinion" and "narrative" have been used interchangeably over the years. At the Highway Patrol we believe that the narrative should not be based on opinion, but rather upon factual information collected and known at the time of the report. The narrative provides significant information to tell the story about how the crash occurred. The section of law noting that an officer's opinion is considered confidential has been removed in the bill.

Currently, any person may request a copy of the crash report which does not include the "opinion" for a payment of two dollars. The two separate fees are tied to a prior system of crash reporting in which the front of the report contained the basic crash information, and the back of the report contained a crash diagram and narrative. Today, crash reports are submitted electronically, and they can be released in their entirety except for any information that must be redacted. Because the crash report is now one electronic file, the changes in this section combine the two separate fees for a total of seven dollars, which is what an individual would pay today to receive a full crash report containing the basic information along with the officer's opinion. These changes still incorporate the need for an individual to assure they are a party to the crash, a party's personal representative, or an insurer of a party to the crash before they can receive a driver's license number, phone number, insurance/policy information, or date of birth.

There are several other minor clean-up recommendations in this section. The most repetitive is changing the term accident to crash.

We were contacted yesterday by Amy Cleary of the GA Group requesting that we also amend 39-08-13(5), which can be identified on line 2 of page number 4, by adding "or agent of the insurer" to the list of individuals who can obtain an unredacted copy of the crash report. This request is valid, and the proposed amendment would match the parties listed in 39-08-13(4). We support this amendment and would appreciate your consideration.

In the **SECTION 6. AMENDMENT** there are several instances where the term accident is revised to crash. Additionally, language is added to clarify when data may be released for qualifying activities such as for use by a government agency in carrying out its functions, for use in connection with matters of motor vehicle theft or public safety and theft, and for use in research activities and producing statistical reports.

The **SECTION 7. and SECTION 8. AMENDMENTS** are revisions which change the term accident to crash.

I appreciate your support in considering the changes offered in this bill and the proposed amendment, and I would be happy to answer any questions you may have.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1098

Page 4, remove lines 1 through 7, replace with and insert:

5. ~~Upon affirmation by~~request from a party to the ~~accident~~crash, a party's legal representative, ~~or the insurer of any party to the accident that the investigating officer's opinion is material to a determination of liability~~crash, the agent of that insurer, or the legal representative or insurer of an individual involved in defending or investigating a prior or subsequent claim or
crash involving a party to the crash and upon payment of a fee of ~~five~~up to seven dollars, the director ~~or investigating agency~~ shall release a completed copy of the ~~investigating officer's opinion~~crash report to the entity requesting the information. The request must be made on ~~an appropriate~~the form approvedprescribed by the director.

Renumber accordingly