

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2087

2001 SENATE TRANSPORTATION

SB 2087

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2087

Senate Transportation Committee

Conference Committee

Hearing Date 1-18-01

Tape Number	Side A	Side B	Meter #
	x		0.0-43.8
1-25-01		x	16.0-18.1
Committee Clerk Signature <i>Suzette Schrafer</i>			

Minutes: SB 2087 relates to intrastate exemptions from federal hours of service provisions for intrastate drivers.

Doyle Schulz: (Motor Carrier Operations Director/NDHP; Supports) See attached testimony.

Senator Mutch: In reference to Motor Carriers Association Program, how much money are we talking about and what do you spend the money on?

Doyle Schulz: \$500,000 lost per year. The money is spent on the support of the inspections employees. Basically pays for Motor Carrier Operations every year.

Curt Peterson: (Association of General Contractors; Neutral) States that the elimination of this is not necessary to do now because federal government law doesn't require it. Also that this is important to contractors because of intensity of short construction season.

Dennis Kramer: (Northern Improvement; Opposes) Gives a detailed explanation of how the 24 hour law works. Also states that contractors are not the same as intrastate drivers in the sense that they do not drive continuously.

Doyle Schulz: Returns to podium and gives more support and summary of the bill. Also states that oil and construction industry is already granted under federal regulations.

Dan Cushing: (NDHP; Supports) Explains the difference between interstate drivers and intrastate drivers. Also gives a copy of federal regulations exempting oil field and construction industries to the committee.

Leroy Eringstad: (ND Motor Association; Supports) States that he supports bill now that he sees the current federal regulations exempting oil and construction businesses.

Senator Bercier: "Dennis, would you be in objection to us striking subsection 3?"

Dennis Kramer: No.

Hearing closed.

Committee meeting on SB 2087 on 1-25-01.

Senator Stenehjem: Doyle Schulz (Motor Carrier Operations Director) is present today to answer any questions we may have. (None asked)

Senator Espegard: The contract and oil people are fine with this bill now.

Senator O'Connell moved to pass SB 2087. Senator Espegard seconded. Roll call vote taken 6-0-0.

Date: 1-25-01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2087

Senate Transportation Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. O'Connell Seconded By Sen. Espeland

Senators	Yes	No	Senators	Yes	No
1 Senator Stenehjem, Chairman	X		6 Senator Bercier	X	
2 Senator Trenbeath, Vice-Chair	X		5 Senator O'Connell	X	
4 Senator Espeland	X				
3 Senator Mutch	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Mutch

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

REPORT OF STANDING COMMITTEE (410)
January 25, 2001 3:00 p.m.

Module No: SR-13-1651
Carrier: Mutch
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2087: Transportation Committee (Sen. Stenehjem, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2087 was placed on the
Eleventh order on the calendar.

2001 HOUSE TRANSPORTATION

SB 2087

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2087

House Transportation Committee

Conference Committee

Hearing Date February 15, 2001

Tape Number	Side A	Side B	Meter #
1	x		125
Committee Clerk Signature <i>Lauren L. Fink</i>			

Minutes: Rep. Weisz - Chairman opened the hearing on SB 2087: A BILL for an Act to amend and reenact section 39-32-02 of the North Dakota Century Code, relating to intrastate exemptions from federal hours of service provisions for intrastate drivers.

Doyle Schulz: I am Director for Motor Carrier Operations for the North Dakota Highway Patrol. I have copies of my prepared written testimony to handout here. A copy of his written testimony is attached.

Rep. Weisz - Chairman (304) Who will this affect?

Doyle Schulz: This will affect any truly intrastate operations. I discussed this with Mr. Ernst of The North Dakota Motor Carrier Association. He didn't feel that his would affect very many at all.
No one has contacted me on this. I don't feel the impact will be very great at all.

Rep. Weisz - Chairman (385) being there is no one wishing to testify for or against SB 2087 the Hearing is closed.

Rep. Hawken: (506) I move a 'Do Pass' on SB 2087.

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House Transportation Committee
Bill/Resolution Number SB 2087
Hearing Date February

Rep. Jensen: (513) I second the motion.

On a roll call vote the motion carried: 12 yeas 0 nays 2 absent.

Rep. Thorpe was designated to carry SB 2087 on the floor.

Date: 2/15
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2087

House Transportation Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep Hunker Seconded By Rep Jensen

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	✓		Howard Grumbo	✓	
Chet Pollert - Vice Chairman	✓		John Mahoney	✓	
Al Carlson	✓		Arlo E. Schmidt	A	
Mark A. Dosch	✓		Elwood Thorpe	✓	
Kathy Hawken	✓				
Roxanne Jensen	✓				
RaeAnn G. Kelsch	✓				
Clara Sue Price	✓				
Dan Ruby	✓				
Laurel Thoreson	A				

Total (Yes) 12 No 0

Absent 2 A

Floor Assignment Rep Thorpe

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

REPORT OF STANDING COMMITTEE (410)
February 15, 2001 12:07 p.m.

Module No: HR-28-3489
Carrier: Thorpe
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2087: Transportation Committee (Rep. Weisz, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2087 was placed on the
Fourteenth order on the calendar.

2001 TESTIMONY

SB 2087

Senate Bill 2087

Presented by

Mr. Doyle Schulz, Motor Carrier Operations Director/NDHP

Good morning, Mr. Chairman and members of the Senate Transportation Committee.

The 1997 Legislature created Chapter 39-32, Intrastate Commercial Drivers Hours of Service. The purpose was to utilize federally authorized variances from the Federal Motor Carrier Safety Regulations for state laws. These variances are listed in the FMCSR Part 350.341 "What specific variances from the FMCSRs are allowed for state laws and regulations governing motor carriers, CMV drivers, and CMVs engaged in intrastate commerce and not subject to Federal jurisdiction" We have adopted all these variances and one that we are not entitled to, that is subdivision 3 "Following twenty-four consecutive hours off, an intrastate driver begins a new seven day period and on duty time is reset to zero." This variance is not listed in Part 350.341 and has not been authorized by the Federal Motor Carrier Safety Administration.

In reviewing the initial testimony, it appears the construction industry, represented by Mr. Curt Peterson and various business and safety officials, testified in support of the bill. Their concern was driving time, on-duty time, and the twenty-four hour restart.

FMSCRs Part 395.1, Hours of Service of Drivers, lists various exceptions to the federal hours of service rules. Under (d) Oilfield operations and (m) Construction materials and equipment both are allowed to restart their seven-day clock following twenty-four or more successive hours off-duty.

The removal of subdivision 3 will not affect current construction or oilfield operations. I have discussed this with Mr. Peterson and also with Mr. Leroy Ernst the director of the North Dakota Motor Carrier Association.

Failure to pass this bill would put the state in non-compliance with the FMCSRs and subject to having 50 percent of our Motor Carrier Safety Assistance Program funding cut.

Thank you for your time. If there are any questions, I will attempt to answer them at this time.

that neither the GVW, GVWR, GCW, nor GCWR of the vehicle equals or exceeds 11,801 kg (26,001 lbs.). However, a State may not exempt a CMV from such laws or regulations if the vehicle:

- (1) Transports hazardous materials requiring a placard.
- (2) Is designed or used to transport 16 or more people, including the driver.
- (b) State laws and regulations applicable to intrastate commerce may not grant exemptions based upon the type of transportation being performed (*e.g.*, for-hire, private, etc.).
- (c) A State may retain those exemptions from its motor carrier safety laws and regulations that were in effect before April, 1988, are still in effect, and apply to specific industries operating in intrastate commerce.
- (d) State laws and regulations applicable to intrastate commerce must not include exemptions based upon the distance a motor carrier or driver operates from the work reporting location. This prohibition does not apply to those exemptions already contained in the FMCSRs nor to the extension of the mileage radius exemption contained in 49 CFR 395.1(e) from 100 to 150 miles.
- (e) Hours of service—State hours-of-service limitations applied to intrastate transportation may vary to the extent of allowing the following:
 - (1) A 12-hour driving limit, provided driving a CMV after having been on duty more than 16 hours is prohibited.
 - (2) Driving prohibitions for drivers who have been on duty 70 hours in 7 consecutive days or 80 hours in 8 consecutive days.
- (f) Age of CMV driver—All CMV drivers must be at least 18 years of age.
- (g) Grandfather clauses—States may provide grandfather clauses in their rules and regulations if such exemptions are uniform or in substantial harmony with the FMCSRs and provide an orderly transition to full regulatory adoption at a later date.
- (h) Driver qualifications:
 - (1) Intrastate drivers who do not meet the physical qualification standards in 49 CFR 391.41 may continue to be qualified to operate a CMV in intrastate commerce if the following three conditions are met:
 - (i) The driver was qualified under existing State law or regulation at the time the State adopted physical qualification standards compatible with the Federal standards in 49 CFR 391.41.
 - (ii) The otherwise non-qualifying medical or physical condition has not substantially worsened.
 - (iii) No other non-qualifying medical or physical condition has developed.
 - (2) The State may adopt or continue programs granting variances to intrastate drivers with medical or physical conditions that would otherwise be non-qualifying under the State's equivalent of 49 CFR 391.41 if the variances are based upon sound medical judgment combined with appropriate performance standards ensuring no adverse affect on safety.

§350.343 How may a State obtain a new exemption for State laws and regulations for a specific industry involved in intrastate commerce?

The FMCSA strongly discourages exemptions for specific industries, but will consider such requests if the State submits documentation containing information supporting evaluation of the following 10 factors:

- (a) Type and scope of the industry exemption requested, including percentage of industry affected, number of vehicles, mileage traveled, number of companies involved.
- (b) Type and scope of the requirement to which the exemption would apply.
- (c) Safety performance of that specific industry (*e.g.*, accident frequency, rates and comparative figures).
- (d) Inspection information (*e.g.*, number of violations per inspection, driver and vehicle out-of-service information).
- (e) Other CMV safety regulations enforced by other State agencies not participating in the MCSAP.
- (f) Commodity transported (*e.g.*, livestock, grain).
- (g) Similar variations granted and the circumstances under which they were granted.
- (h) Justification for the exemption.
- (i) Identifiable effects on safety.
- (j) State's economic environment and its ability to compete in foreign and domestic markets.

§350.345 How does a State apply for additional variances from the FMCSRs?

Any State may apply to the Administrator for a variance from the FMCSRs for intrastate commerce. The variance will be granted only if the State satisfactorily demonstrates that the State law, regulation or enforcement practice:

- (a) Achieves substantially the same purpose as the similar Federal regulation.
- (b) Does not apply to interstate commerce.

