

MINUTES
SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, February 27, 2018

TIME: 1:30 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Brackett, Vice Chairman Nonini, Senators Keough, Winder, Hagedorn, Den Hartog, Lodge, and Harris

ABSENT/ EXCUSED: Senator Buckner-Webb

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Brackett** convened the meeting of the Senate Transportation Committee (Committee) at 1:33 p.m. He stated that Senator Keough and Senator Buckner-Webb were presenting bills in other committees and would arrive later.

H 471 **Chairman Brackett** welcomed Representative Clow and invited him to present **H 471**. This legislation would prohibit driving in the extreme left-hand lane for a period of time that impedes the flow of other traffic.

Representative Clow said this bill originated from the concerns of citizens about a safety issue on the interstate highway. This bill is designed for controlled access highways; Idaho's only controlled access highways are the Interstates. **H 471** identifies those individuals travelling in the left lane. They should not impede the flow of traffic travelling in that same lane at a lawful rate of speed behind them. He provided hypothetical examples of how this occurrence affects travel along interstate highways. Currently, there is no law that addresses the situation. This bill clarifies that slower vehicles can pass, but must return to the right lane so as not to impede other passing or faster travelling traffic.

Representative Clow offered questions about the bill that he had addressed during the hearing in the House committee; the fine for being stopped would be \$90. When a driver in a right lane is behind a slower driver, they have two choices: (1) stay in the right lane and be impeded and frustrated; or (2) move into the left lane and make the pass; cars behind a slower driver in the left lane have no choice. They can only be frustrated and slow down; they cannot go to the right lane because there is already a vehicle moving slower that blocks them. The section of Idaho Code chosen to amend in **H 471** was suggested by the Idaho State Police (ISP). Finally, **Representative Clow** said that local roadway signs always take precedence over whatever is in the code. This bill was brought to address drivers who remain in the left lane if they are not travelling at the higher speeds.

DISCUSSION: **Chairman Brackett** commented that Representative Clow has been involved with other speed limit legislation during his career as a legislator.

Senator Hagedorn asked if the objective of the legislation is to keep someone from driving slow enough to impede traffic behind them. **Representative Clow** said he was correct. Common sense dictates if a driver is not going the speed limit, they should not travel in the left lane. The situation occurs when someone is not travelling the speed limit and are trying to pass another vehicle, but they do not have the momentum to get around them in a timely manner.

Senator Hagedorn said existing law states: "If a vehicle is driving at such a slow speed to impede normal and reasonable movement of traffic." He wondered why the language in **H 471** would need to be added. **Representative Clow** said in his discussions with ISP, they noted the problem exists on controlled access highways. ISP felt this language would clarify the circumstances. **Senator Hagedorn** asked what the "period of time" that was included in the bill would be; he wondered how that would be measured by law enforcement or the driver. **Representative Clow** said he questioned that language as well; however, it is another judgment call that ISP officers make every day.

Senator Harris reminded Representative Clow that there is a split speed limit on interstate highways; cars travel at a higher limit than trucks. He wondered, if a truck is passing another truck, would the passing truck be cited because a truck legally cannot go at the higher speed. **Representative Clow** said it does not happen often. The problem is motor homes which technically can travel at the higher speed limit. The dual speed limit does create a challenging situation because many trucks have governors that can be set at a much lower speed limit. It is a message to truck drivers that, if they want to pass another truck, they need to plan ahead to pass when it is safe. **Senator Harris** asked if it would be a better solution to raise the speed limit for trucks to match that of cars. **Representative Clow** replied it was not part of this bill, but it might be a future consideration.

Senator Winder commented this was one of his greatest frustrations in driving on any two-lane road where the slowest lane is the left lane. This deals specifically with a problem on interstate highways; he does not believe changing the speed limits would make a difference. This is about the judgment of a driver as to whether he can safely and expeditiously overtake a vehicle without impeding other vehicles. The area in question, Hammett Hill, will receive a third lane in a few years which will help eliminate that problem, but there are other problem areas. He stated this gives an officer some discretion in how they administer the law.

MOTION: **Senator Winder** moved to send **H 471** to the floor with a **do pass** recommendation. **Senator Den Hartog** seconded the motion.

SUBSTITUTE MOTION: **Senator Hagedorn** moved to hold **H 471** in Committee. **Senator Harris** seconded the motion.

DISCUSSION: **Senator Hagedorn** said the unchanged portion of Idaho Code § 49-655 does not specify the type of highway. He asserted this bill could cause confusion because it is only applicable to a controlled access highway. He stated the section about "period of time" is very discretionary on the part of the law enforcement officer, as is the first section. He said he does not see this changing anything as currently written, except to add more confusion. He asked for support to hold the bill in Committee.

ROLL CALL VOTE ON SUBSTITUTE MOTION: **Chairman Brackett** called for a **roll call** vote on the substitute motion. **Chairman Brackett, Vice Chairman Nonini, Senators Winder, Den Hartog, Lodge, and Harris** were recorded as voting **Nay**. **Senator Hagedorn** was recorded as voting **Aye**. The motion failed.

ROLL CALL VOTE ON ORIGINAL MOTION: **Chairman Brackett** called for a **roll call** vote on the original motion. **Chairman Brackett, Vice Chairman Nonini, Senators Winder, Den Hartog, and Lodge** were recorded as voting **Aye**. **Senators Hagedorn and Harris** were recorded as voting **Nay**. The motion passed. **Senator Winder** offered to carry the bill on the Senate floor.

H 469 **Chairman Brackett** welcomed Representative Syme and invited him to present **H 469**. The legislation proposes to revise provisions for school safety patrols.

Representative Syme said this legislation strikes the last sentence, or Idaho Code § 49-652(3), that was part of an education bill from the 2017 Legislative Session. House legislators did not think it appropriate to impart the responsibility of placing students on the school safety patrol in a law enforcement role. If a student safety patrol member becomes witness to a violation, the law enforcement officer first has to go to the patrol member's parents to make them aware that, if the violator chooses to go to court, the patrol member could be subpoenaed to appear in court. This legislation would not preclude any student from notifying a teacher or law enforcement officer of any school-related problems or concerns.

DISCUSSION: **Senator Winder** asked if schools are required to offer safety training. **Representative Syme** said he was unsure, but he added that issue was not the intent of this legislation.

MOTION: **Senator Lodge** moved to send **H 469** to the floor with a **do pass** recommendation. **Vice Chairman Nonini** seconded the motion. The motion passed by **voice vote**. **Senator Lodge** offered to carry the bill on the Senate floor.

H 388 **Chairman Brackett** welcomed Corporal Ryan Jones of the Boise Police Department and invited him to present **H 388**. This legislation proposes clarifications to the procedures to be taken by drivers when an emergency vehicle approaches.

Cpl. Jones said he was not representing the Boise Police Department, but has 24 years in law enforcement conducting traffic enforcement and responding to accidents. He observed drivers become confused when an emergency vehicle approached. Most drivers are taught to move their vehicle to the right-hand side of the lanes of traffic. In Boise, there are limited lawful parking places on many city streets. Therefore, the burden of determining where to pull over is placed on the public. The intent of this legislation to place in Idaho Code that, when a emergency vehicle approaches, drivers must move to the right; faster traffic would move to the left. **Cpl. Jones** shared examples he witnessed of variations of traffic movement in emergencies, including drivers who moved into oncoming traffic.

MOTION: **Senator Hagedorn** moved to send **H 388** to the floor with a **do pass** recommendation. **Senator Den Hartog** seconded the motion.

DISCUSSION: **Senator Lodge** commented she was concerned that drivers do not know what to do when there is an emergency vehicle. She said even with pull-out lanes on Highway 55 to Banks, Idaho, drivers are reluctant to pull over to let faster traffic pass them. This reluctance creates dangerous situations. She wanted to know if **Cpl. Jones** thought questions on the driver's licensing test might be helpful. **Cpl. Jones** agreed with Senator Lodge's concerns, but he stated he was cautious about adding to the driver's licensing test.

Vice Chairman Nonini wondered how cars would move to the right when on an interstate highway of multiple lanes; they sometimes move to the left. **Cpl. Jones** said emergency vehicles move up the emergency lane, generally on the far left.

VOTE ON MOTION: The motion passed by **voice vote**. **Senator Den Hartog** offered to carry the bill on the Senate floor.

SJM 104 **Chairman Brackett** said Representative Monks has a scheduling conflict and the Committee would move to the next agenda item. He invited Senator Harris to present **SJM 104**, a Joint Memorial requesting Congress to permanently exempt Idaho livestock and agriculture commodity transporters from the federal Electronic Logging Device (ELD) mandate.

Senator Harris said ELDs are devices that hook to the Electronic Control Module (ECM) on the motor of a truck in order to sync with that motor. It is connected to the internet by cellular phone or satellite. ELDs track everything the truck does — hours of service, speed, distance travelled, hard braking, and evasive maneuvers. It creates two reports: (1) a report available to law enforcement; and (2) a safety report sent to the trucking company that owns the truck. ELDs replace paper logs that many truckers use to keep trace of their hours of service.

Larger trucking companies support the usage of ELDs. However, this mandate includes all trucks except those manufactured before 2000. Smaller trucking companies are not as supportive of their usage, especially those hauling livestock and perishable agriculture products. After the implementation date of December 18, 2017, the United States Department of Transportation (USDOT) and the Federal Motor Carrier Safety Administration (FMCSA) agreed to exempt agricultural products for a 90-day period. **SJM 104** seeks to make that exemption permanent.

**DECLARATION
OF CONFLICT OF
INTEREST:**

Chairman Brackett and **Senator Harris** declared potential conflicts of interest pursuant to Senate Rule 39(H) because **SJM 104** deals with the industry from which they make their living.

MOTION:

Vice Chairman Nonini moved to send **SJM 104** to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion.

DISCUSSION:

Senator Winder said there are other trucking entities that do not like ELDs and wondered if this legislation was too limiting. **Senator Harris** stated he agreed with Senator Winder, but it would have been difficult to include all those with concerns. This is limited to perishable agricultural products, including livestock.

Senator Keough asked how Senator Harris would define "agriculture commodity," and where he got the definition for the legislation. **Senator Harris** said "agriculture commodities" are anything pertaining to agriculture. He offered potatoes as an example. They are an "agriculture commodity" until they are processed. **Senator Keough** added that forest products are sometimes defined as an "agriculture commodity," and sometimes they are not. **Senator Harris** agreed, but he did not know how the federal government defines forest products. **Senator Keough** asked what "heavy machinery" meant on line 33 of the memorial; she wondered if it was another way of saying "semi-truck." **Senator Harris** provided an example that clarified the meaning for Senator Keough.

**VOTE ON
MOTION:**

The motion passed by **voice vote**. **Senator Harris** offered to carry the bill on the Senate floor.

HJM 12

Chairman Brackett welcomed Representative Monks and invited him to present **HJM 12**. The Joint Memorial encourages Congress to revise regulations that require a Commercial Driver's License (CDL) to operate certain vehicles.

Representative Monks said this legislation pertains to the enforcement of federal regulations solely on a vehicle manufacturer's rating and carrying weight-capacity determination. The federal regulations affect small businesses, like landscapers, who are being stopped by law enforcement. The small business owners are resorting to reloading their trailers and pick-up trucks in order to lower the vehicle's weight. If their truck, trailer, and cargo weigh 26,000 pounds or more, the operator is required to have a Commercial Driver's License (CDL). Recreational vehicles (RVs) are exempt because they are not commercial vehicles.

DISCUSSION: **Chairman Brackett** commented it is the contents of the trailer that cause the vehicle to require an operator have a CDL. **Representative Monks** said only if the vehicle is at full capacity. He does not believe that pick-up trucks should be regulated.

MOTION: **Senator Den Hartog** moved to send **HJM 12** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion passed by **voice vote**. **Senator Den Hartog** offered to carry the bill on the Senate floor.

MINUTES APPROVAL: **Senator Den Hartog** moved to approve the Minutes of February 13, 2018. **Senator Harris** seconded the motion. The motion passed by **voice vote**.

ADJOURNED: With no further business before the Committee, **Chairman Brackett** adjourned the meeting at 2:34 p.m.

Senator Brackett
Chair

Gaye Bennett
Secretary