

MINUTES
SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, February 14, 2017

TIME: 1:30 P.M.

PLACE: Room WW53

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

ABSENT/ EXCUSED: None

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 1:31 p.m.

H 20 **Chairman Brackett** invited Representative Harris to present **H 20**.

Representative Harris said there are two types of vehicles classified as hybrids. The first is gasoline driven like the Honda Prius, and the other is electric plug-in driven like the Chevrolet Volt. Gasoline hybrids currently pay the gas tax when filling their tanks. Plug-in hybrids do not pay their fair share of the gas tax because half of their miles driven rely on the electrical grid as their power source. Currently, both pay the same registration fee in addition to paying a hybrid vehicle registration fee. **H 20** exempts gasoline hybrids from paying the electric hybrid vehicle additional registration fee because they already pay the gas tax.

Senator Winder remembered that this exemption passed the Senate last year, but the House didn't hear the bill. **Representative Harris** agreed that last year's bill did not get heard on the House side, but that legislation exempted all hybrids from paying the extra registration fee.

Senator Hagedorn asked if the \$20,000 cost to the Idaho Transportation Department (ITD) as written in the bill's Fiscal Note could be explained. **Representative Harris** replied that the Vehicle Identification Number (VIN) does not currently distinguish plug-in hybrid vehicles from gasoline hybrid vehicles. ITD is working with R.L. Polk & Company to license a service that will integrate ITD's new system so that a plug-in hybrid can be identified. The cost is for that service. With the service, the Idaho Department of Motor Vehicle (DMV) employees working vehicle registration counters will be able to distinguish between hybrids when servicing customers registering their vehicles.

CONFLICT OF INTEREST: **Senator Winder** declared that he may have a conflict of interest under Senate Rule 39(H) because he owns two gasoline driven hybrid vehicles.

MOTION: **Senator Den Hartog** moved to send **H 20** to the floor with a **do pass** recommendation. **Senator Keough** seconded the motion.

Before the vote, **Senator Hagedorn** commented that he understood the logic of this legislation, but ITD's budget is currently set at a \$435,000 shortfall, and pulling \$1 million in annual estimated revenue was counter productive to making ITD fiscally solvent.

Chairman Brackett asked Representative Harris if he would support increasing the fuel tax. **Representative Harris** responded that at this time he was not prepared to discuss options for replacing the reduction in ITD's revenue if **H 20** becomes law. **Chairman Brackett** ended his remarks by stating there were two separate issues at play; Senator Hagedorn's comment about this legislation's affect on ITD's budget was an important observation.

Senator Winder said that he doesn't like taking funds away from ITD either, but this was a fairness issue because gasoline driven hybrids and regular gasoline driven vehicles get about the same gas mileage per gallon.

Chairman Brackett said that legislators had received a lot of correspondence on this issue, proving that they listen and act on public comment and feedback.

**VOTE ON
MOTION:**

The motion to send **H 20** to the floor with a do pass recommendation passed by **voice vote**. **Chairman Brackett** assigned Senator Den Hartog to carry the bill on the floor.

S 1069

Chairman Brackett invited Senator Vick to present **S 1069**.

As background, **Senator Vick** began by stating that in 2008 Idaho passed a law stating Idaho would not comply with the federal REAL ID Act legislation. Last year, Idaho changed its position for various reasons in order to comply with the federal REAL ID Act. **S 1069** offers an Idaho driver's license or identification card applicant the option of acquiring either a REAL ID compliant card or one that is not REAL ID compliant. The applicant is to be informed of the differences in the two and understand what documents will be retained by ITD.

Senator Vick said that a non-compliant REAL ID Act card can be used for voting or registering to vote, applying for and receiving federal benefits, being licensed to drive by the State, receiving health or life preserving services, access to court proceedings, and participating in any law enforcement investigation. The main reasons to have a REAL ID Act compliant card is to be able to board aircraft, entering federal facilities requiring an ID, and entering nuclear power plants. Commercial air travel is by far the issue affecting most people.

When the legislation to comply came up last year, ITD said they would offer both compliant and non-compliant cards. **Senator Vick** said that at some point, if ITD decides not to offer both, the requirement should be in Idaho Code. To get a compliant license, an applicant must show a certified birth certificate both initially and with every renewal. There are cases where that document is not available. Page 2 of **S 1069** discusses what the ramifications are of choosing each option.

Senator Winder agreed with the concept, but asked if there was a visual difference between the compliant and non-compliant licenses. **Senator Vick** said that from what he has read, every State will have to print clearly on the ID whether it is compliant or non-compliant. **Senator Winder** voiced concern that without a clear distinction, the license holder could forget they have a non-compliant license and will present it to board an airplane or enter a federal facility requiring identification. **Senator Vick** thought that ITD could best address that concern.

Mollie McCarty, Government Affairs Manager for ITD, responded that while she could not address specific details of the differences in the cards, she knew that a star will appear on the cards that law enforcement and other authorities will recognize as being compliant or not. **Senator Winder** thought that was good for law enforcement, but he wanted to know if the card holder would recognize their card as being compliant or not. **Ms. McCarty** was unsure but would get information to the Committee. She said that ITD is concerned about that possibility when people choose a non-compliant license. **Senator Winder** was pleased ITD was thinking about this issue because he believes non-compliant licenses in particular need to be very clear.

Senator Lodge asked how easy it was to change from a non-compliant to a compliant license. **Ms. McCarty** said that the applicant just needed to provide proof, legal presence and documentation that confirms their identity. The documentation and process cannot be circumvented. She recommended that individuals should have the documentation readily available if an emergency arises. **Senator Lodge** wanted to know how long it would take to get a compliant license if the individual had all the documentation. **Ms. McCarty** said that as long as they had the documentation it wouldn't take long at all. **Senator Lodge** concluded by asking about the fiscal note and if there was data showing this can be done within the current budget. **Ms. McCarty** assured Senator Lodge that the bill only clarifies the parameters, as ITD had already envisioned the needs of customers. ITD is working with customers and the media to get the information about the options to the public.

Senator Den Hartog wondered if different information would be shared with the Department of Homeland Security for compliant and non-compliant licenses. **Ms. McCarty** responded that although the perception is that there is a big national database, the reality is it's a State database at ITD. While information is stored by ITD alone, there is sharing of information with other States when verifying identity is required.

Senator Hagedorn asked for the purposes of TSA's needs when boarding an airplane, what alternative identification instruments are available. **Ms. McCarty** said that list was on their website, but certainly a passport or military ID are alternatives. A compliant driver's license is not the only option. She said she would forward information to Committee members.

TESTIMONY:

Chairman Brackett invited Kathy Griesmyer, Policy Director for ACLU of Idaho, to offer testimony on **S 1069**.

Ms. Griesmyer said the ACLU of Idaho supports **S 1069**, but requested it be amended to putting additional privacy protections in place. The ACLU opposes the REAL ID Act because of privacy concerns with regards to the information license holders present to DMV to secure a license. She said that **S 1069** was a good start by giving applicants an option to select a non-compliant card.

Chairman Brackett asked if Ms. Griesmyer would share a copy of her testimony with the Committee. **Ms. Griesmyer** would send the facts she offered to the Committee via email.

MOTION:

Senator Harris moved to send **S 1069** to the floor with a **do pass** recommendation. **Vice Chairman Nonini** seconded the motion. The motion passed by **voice vote**. **Senator Vick** said he would carry the bill on the Senate floor.

S 1071

Chairman Brackett invited Morgan Howard, an intern for Senator Johnson, to present **S 1071**.

Ms. Howard said that **S 1071** adopts language that the Utah Legislature passed in 2015. It exclusively exempts vehicle license plate obstructions caused by trailer hitches or other items listed in the bill. It offers clear guidelines for Idaho motorists on what is allowable with regard to license plate visibility.

Chairman Brackett suggested there are many natural items that can obstruct a license plate. **Ms. Howard** recommended that those items could easily be removed.

Senator Hagedorn observed that the bill does not designate between a front or back license plate. **Ms. Morgan** agreed front or back is not qualified in the bill, but most of the devices listed require installation at the rear of the vehicle. **Senator Hagedorn** continued that most devices slide into a two-inch receiver hitch, of which he has one on the front of his car. He asked if this bill allows him to install a device on the front of his vehicle? He also commented that the bill is not clear on the different styles of bumpers. Although not an attorney, **Ms. Morgan** believed it would be allowed as the bill is written, but the Idaho State Police (ISP) should add their input.

Senator Keough asked if there were any challenges or incidents that caused this legislation to be brought forward. **Ms. Morgan** said that a photograph in the Committee members' packets of a ball hitch attached to the back of a pick-up truck located in front of the back license plate was from an Idahoan who was pulled over because of the ball hitch. There were also drugs found in the vehicle at the time it was stopped.

TESTIMONY:

Chairman Brackett welcomed Major Sheldon Kelly of ISP to offer testimony.

Major Kelly said that the ISP's concern is being able to identify a vehicle. If a license plate is obscured and cannot be read, then the safety of the officer is at risk as he approaches a stopped vehicle without information available by running a license plate number. A law enforcement officer's objective is to determine if there could be criminal activity. In the case Ms. Morgan described, that was what was happening. If a license plate is obscured, an officer has to get out of his vehicle to identify the plate. He used the national Amber Alert as an example of being able to identify a vehicle; an obstruction could hinder finding a suspect.

Vice Chairman Nonini shared the photograph with Major Kelly. He thought the license plate, despite the location of the trailer hitch, was visible and readable and asked if the driver was stopped because of probable cause. **Major Kelly** was not familiar with the particular incident, but thought it was a likely scenario. He said that depending on the angle the officer was viewing the license plate, there could be an obstruction. Without probable cause for the stop, charges from discovering the drugs could be tossed out of court.

Senator Den Hartog asked if Major Kelly was recommending a license plate be removed and temporarily relocated on the attachment being slid in and out of a bumper slider or hitch. **Major Kelly** offered that if the object is securely attached, the license plate could be relocated.

Senator Keough said that many vehicles have rear racks for various reasons. It appears they are all in violation of current law. She agreed that there was a problem, because more and more people are attaching equipment to their vehicles. But she wanted to know if without probable cause of some other violation, would a law enforcement officer actually pull over a vehicle carrying a camping cooler on the back of their car. **Major Kelly** agreed officers were seeing more and more of this, but said a vehicle could be stopped for lights in which a warning may be given. He concluded that it was becoming a problem and speculated that perhaps the license plate should be relocated on the vehicle.

MOTION: **Senator Hagedorn** moved to hold **S 1071** in Committee. **Vice Chairman Nonini** seconded the motion.

Senator Hagedorn understood the intent of the bill, but he does not believe obstructing a license plate is the problem and he was not willing to move forward with this issue at this time.

Senator Winder, Chairman Brackett, and Vice Chairman Nonini concurred that Ms. Morgan had done an excellent job in presenting **S 1071**.

Ms. Howard offered closing remarks in which she urged the Committee to visit the Utah State Highway Patrol website where they would find statistics regarding the outcome of Utah having passed similar legislation. She concluded by asking the Committee to reconsider the motion and send **S 1071** to the floor with a do-pass recommendation.

VOTE ON MOTION: The motion to hold **S 1071** passed by **voice vote**.

MINUTES APPROVAL: **Senator Lodge** moved to approve the Minutes of January 31, 2017. **Senator Hagedorn** seconded the motion. The motion passed by **voice vote**.

Vice Chairman Nonini moved to approve the Minutes of February 9, 2017. **Senator Winder** seconded the motion. The motion passed by **voice vote**.

ADJOURNED: With no further business before the Committee, **Chairman Brackett** adjourned the meeting at 2:36 p.m.

Senator Brackett
Chair

Gaye Bennett
Secretary