

MINUTES
SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, March 13, 2018

TIME: 1:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Brackett, Vice Chairman Nonini, Senators Keough, Winder, Hagedorn, Den Hartog, Lodge, Harris, 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 Senate Transportation Committee (Committee) meeting at 1:07 p.m. He welcomed Senate Page Tessa Fronk who would be assisting the Committee's page.

PAGE GRADUATION: **Chairman Brackett** invited Committee Page Megan Rauvola to share her experience as a page during the second half of the Legislative Session. He presented her with gifts of appreciation from the Committee.

Ms. Rauvola said she enjoyed her time with the Committee and she now realizes transportation covers far more than just driving. She also discovered that she finds the Legislature so interesting that she will be furthering her education in political science. Because she enjoys children, her long-term career options are either to teach kindergarten or pursue a career in pediatric anesthesiology.

H 655 **Chairman Brackett** welcomed Representative Dixon and invited him to present **H 655**.

Representative Dixon gave an overview of **H 655** which addresses the standard weight of vehicles that require a Commercial Driver's License (CDL) to operate the vehicle. The bill would remove the words "manufacturer's" and "rating" when speaking of weights of vehicles and trailers for CDL requirements. The basis for needing a CDL is the federal Gross Vehicle Weight Rating (GVWR), which applies to vehicles weighing 26,000 pounds or over and also based on a manufacturer's rated weight as opposed to actual weight. A cattleman constituent of the legislator contacted him about his inability to move a few of his stock in a trailer attached to a pickup truck without being stopped, detained, and ticketed because he did not have a CDL.

There are other challenges outside of agriculture. Contractors driving their work rigs and trailers haul items which cause them to be out of compliance. Their trailer was rated to hold 15,000 pounds and it exceeded the 26,000 pound rating when attached to their truck. People have been cited for being out of compliance for not having a CDL because they had the potential to carry a total weight over 26,000 pounds. These problems were the impetus for **H 655**. **Representative Dixon** had a meeting with the Idaho State Police (ISP), Idaho Transportation Department (ITD) and the federal agency overseeing GVWR in Idaho to discuss this problem; he discovered agriculture was already exempt from federal GVWR. General contractors and others still have an issue with not being able to use their equipment without a CDL for vehicles that have the potential to carry 26,000 pounds. Enforcement could be an issue, but the problem remains.

DISCUSSION:

Senator Den Hartog asked how **H 655** relates to **HJM 12** which was a memorial to Congress asking them to take a look at this issue. **Representative Dixon** said it is tied to it; the joint memorial was in process before he brought this bill.

Senator Keough said based on calls from constituents who are concerned that passage of this bill would permit CDL drivers of trucks weighing 80,000 pounds or higher might be in jeopardy when crossing state lines because their Idaho CDL may be questioned and/or invalid as a result of this legislation. **Representative Dixon** said, based on insight from ITD, this presents a risk that the commercial licensing system would be out of compliance with federal regulation. The higher weights would still fall into the requirement of CDL and, when crossing state lines, drivers would need to comply with those states' regulations.

Senator Hagedorn wondered why a "manufacturer's" was proposed to be removed from Idaho Code § 49-105(17)(a) and (b). **Representative Dixon** said that is the way it is enforced now with the federal stamp and the manufacturer's rating of weight; that combined weight is the ultimate determining factor in commercial licensing, as opposed to what is actually hauled. There is the potential and capability for hauling 26,000 pounds, but if a driver hauls less the driver could be found to be in violation.

Senator Harris asked why a contractor would not want a CDL. **Representative Dixon** said he could not explicitly answer, but speculated it could be an imposition or nuisance to get a CDL if drivers were not regularly hauling up to 26,000 pounds. **Senator Harris** wondered if hours-of-service would have an impact for a driver with a CDL. **Representative Dixon** said that was another aspect to the issue.

Senator Buckner-Webb asked about the Fiscal Note which indicates no fiscal impact, but she stated it seemed implicit to her that there would be some impact. However, she wondered if part of the issue was there are too few CDLs. **Representative Dixon** said the problem is not that there are too few of them, but the inability to be able to conduct business without a CDL when 26,000 pounds are not being hauled and probably never will be hauled. **Senator Buckner-Webb** said many jobs require certifications and it concerned her that the issue is getting a CDL would be inconvenient.

Representative Dixon said he was not attempting to negate the safety aspects that CDLs provide, but many are towing trailers attached to larger trucks with manufacturers' ratings that are sometimes over-expressed. However, being sited and held accountable for something that a business will not do is what is at issue. **Senator Buckner-Webb** thought operating without a CDL was a danger to public safety. **Representative Dixon** agreed, if the actual weight is over 26,000 pounds.

Senator Winder asked if there was opposition from ISP when **H 655** was in the House of Representatives. **Representative Dixon** said they had a quick hearing in the House that may have delayed ISP's testimony.

Senator Hagedorn asked how this would be enforced; he wondered if local officers would need weighing scales to check the vehicle's weight. **Representative Dixon** suggested it would be enforced as it is currently enforced. He stated it was his impression that it is only being enforced by ISP and he was not aware of whether local law enforcement was also issuing citations. Currently, if there is a moving violation, ISP can check for weight violations. He stated ISP might have scales or could take the violators to scales for weighing, but it would be the judgement of the ISP officer.

Senator Buckner-Webb asked, if there is a need to weigh, would the State's current scales be able to handle the greater weight. **Representative Dixon** said his understanding was that a scales truck would need to be brought to the vehicle, or the vehicle would be taken to a weigh station. **Senator Buckner-Webb** asked if new scales would need to be procured for the higher weight. **Representative Dixon** said Idaho's current scales can handle that weight.

TESTIMONY:

Chairman Brackett welcomed Captain Tim Horn of ISP's Commercial Vehicle Safety Unit and invited him to testify.

Captain Horn stated ISP opposes **H 655**. The legislation would affect the safety of drivers traveling Idaho highways, and negatively affect all law enforcement in Idaho. ISP does not have scales; the only scales available are at the ports of entry into the State. ISP would need an increase in funding to enforce these proposed changes. At present, an officer would have to escort the vehicle to a port of entry, which would be very time consuming.

Police escort is currently the only option available to enforce this bill and would cripple commerce for trucks entering or leaving Idaho. If ISP estimated that a vehicle was in violation and issued a citation, there would be no proof of the violation because it was based on an estimate in court. Tractor trailers weigh between 15,000 to 18,000 pounds. If there is a semi-truck, which has more axles than a pickup truck, with a trailer attached it could weigh more than 26,000 pounds empty.

Captain Horn asserted if this bill passed, nearly any person could drive a big truck. The CDL process guarantees driving expertise for a truck of this size. A CDL is for drivers of commercial vehicles; issuance of CDLs began in 1982. Prior to CDLs, regulating the mobility of commerce was limited, which caused problems for long periods of time and reduced productivity. **Captain Horn** did not know the history of how the federal government arrived at 26,000 pounds as the standard for vehicle weight requiring a CDL. He concluded by explaining the weight acronyms in the bill.

DISCUSSION:

Senator Harris said he has heard of pickups and box trailers being stopped for weight; he asked how ISP determines if a vehicle's use is for commercial purposes. **Captain Horn** said ISP has to have probable cause to detain a vehicle. They ask if they are operating as a business; if the vehicle falls over 26,000 pounds then the driver has to have a CDL. He added, if this bill passed, a dump truck could be operated without a CDL. **Senator Harris** asked what happened if the driver stated he was not operating the vehicle as a business. **Captain Horn** answered they would not fall under this act.

Captain Horn elaborated, under Idaho Code § 67-2901A, certain commodities shipped over long distances are exempt from the CDL requirement for trucks 26,000 pounds and above in Idaho. If this bill passed, the federal government could decertify Idaho-issued CDLs and businesses would have to go out-of-state to get a federally-certified CDL.

Senator Winder said he opposes this bill, but understands why it was brought by Representative Dixon. It addresses common, local situations like landscapers towing trailers, contractors who remodel basements, and similar small businesses. He asked Captain Horn what ISP would suggest as a solution for these types of circumstances. **Captain Horn** said ISP does not have a solution. The entire United States is using the GVWR standard, and there is no way he is aware of to accommodate the few people requesting this change when compared to the many who operate trucks over 26,000 pounds and need a CDL.

Chairman Brackett asked how much federal funding might be lost. **Captain Horn** said there are states, in particular North Dakota and Tennessee, that came close to losing the federal funds accompanying compliance with GVWR, but their lawmakers remedied the situation before the deadline.

Senator Harris asked about the timeline for the federal government decertifying Idaho's CDLs. **Captain Horn** deferred to others in the audience who would know more about that process, but he said Idaho would not be able to issue CDLs if they were decertified.

Captain Horn concluded by reminding the Committee that ISP opposes the bill.

DISCUSSION:

Chairman Brackett welcomed Michael Kane, representing the Idaho Sheriffs' Association, and invited him to testify.

Mr. Kane said ISP is not detaining vehicles because they appear over weight. ISP make their determination based on the markings on the vehicle. Idaho's sheriffs do not have the equipment to enforce this legislation; as such, they oppose **H 655**. There were no questions for Mr. Kane.

Chairman Brackett asked Colonel Kedrick Wills, ISP Director, if he wanted to testify. **Col. Wills** said Captain Horn had covered ISP's concerns about **H 655**. He reiterated ISP does not support this legislation.

Chairman Brackett asked Mollie McCarty, ITD's Government Affairs Program Manager, if she wanted to testify. **Ms. McCarty** addressed the issue of decertification raised by Senator Harris. There is a process where communications would be delivered within the State alerting stakeholders that CDLs would be prohibited from being offered in Idaho until Idaho's noncompliance would be remedied. She stated, these are federal issues. Her understanding that the loss of federal highway funding to Idaho would be up to 4 percent in the first year and up to 8 percent in subsequent years; that amounts to \$4 million the first year and \$16 million in subsequent years.

Senator Winder asked if she had suggestions that would allow law enforcement and small contractors to arrive at a consensus on this issue. **Ms. McCarty** said she had no ideas but thinks getting the right people together to discuss and work on the issue would be productive. **Senator Winder** said he would like to see stakeholders work through this issue to satisfy all parties.

Representative Dixon thanked the Committee and said he appreciated the testimony.

MOTION:

Vice Chairman Nonini moved to hold **H 655** in Committee. **Senator Buckner-Webb** seconded the motion. The motion passed by **voice vote**. **Senator Harris** asked to be recorded as voting **Nay**.

Senator Winder offered to help facilitate discussions with the stakeholders because he felt the issue deserves attention.

ADJOURNED:

With no further business before the Committee, **Chairman Brackett** adjourned the meeting at 2:01 p.m.

Senator Brackett
Chair

Gaye Bennett
Secretary