

ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature – First Regular Session

COMMITTEE ON TRANSPORTATION

Minutes of Meeting
Thursday, February 10, 2011
House Hearing Room 3 -- 9:00 a.m.

Chairman Williams called the meeting to order at 9:00 a.m. and attendance was noted by the secretary.

Members Present

Mrs. Burges
Ms. Fann
Mr. Farley

Ms. Hobbs
Mrs. McLain
Mr. Meyer

Mr. Weiers, JP
Mr. Gray, Vice-Chairman
Mr. Williams, Chairman

Members Absent

None

Committee Action

HB2003 - DPA (9-0-0-0)
HB2318 - DP (8-0-0-1)
HB2319 - DP (8-0-0-1)

HB2426 - HELD
HB2523 - DP (9-0-0-0)
HB2555 - HELD

CONSIDERATION OF BILLS

HB2426 - communication devices; class G licensees - HELD

HB2555 - regulation of taxis; limitations - HELD

Chairman Williams announced that HB2426 and HB2555 will be held.

HB2523 - motor vehicle accidents; violations - DO PASS

Vice-Chairman Gray moved that HB2523 do pass.

HB2523 expands current law to include any person driving on a suspended or revoked license to be subject to a Class 4 or 5 felony if there is a motor vehicle accident resulting in death or serious physical injury (Attachment 1).

Representative Terri Proud, sponsor, stated that when a person commits a crime, the penalty should fit the crime. That is not true in the situation the Members will hear about, which this bill fixes.

Kathleen Mayer, Legislative Liaison, Pima County Attorney's Office, spoke in favor of HB2523. She related that A.R.S. Sections 28-674 and 28-675 set up felony prosecutions (Class 4 and 5) for causing serious physical injury or death while driving without a driver license. Class 4 felonies carry sentencing ranges of 1 to 3.75 years and Class 5 from .5 to 2.5 years, if the individual is incarcerated; however, an individual driving without a license is only subject to felony prosecution if the license is suspended for specific purposes. An individual's driver license can be suspended for other reasons that do not fall within the parameters of those two statutes, so the individual can only be subject to a misdemeanor prosecution, even if they kill someone while driving on a suspended license. She opined that if someone is killed or seriously injured, and the driver license of the person responsible has been suspended, that individual should be held appropriately accountable.

Wayne Schlect, representing self, Tucson, spoke in favor of HB2523. He talked about a tragic car accident that occurred on April 20, 2010 in which his wife, Lorrie, and his granddaughter, Caia, were killed (Attachment 2) because another driver, on his seventh suspended license, ran a red light and struck their Lexus on the passenger side. His daughter, Casie Lea, who was with them, has suffered physically and mentally since that day. The investigation completed by the Police Department concluded that the man's conduct was criminal; however, under current law, the longest sentence he could experience for driving on a suspended license was 90 days because state law prevented him from being charged with a felony. He was sentenced to only 75 days in jail, which is not appropriate accountability. He appealed to the Members to pass this bill so no other family will suffer like his.

Ms. Mayer remarked that people in the community and across the state continue to drive on suspended licenses with no consequences. The driver of the other vehicle ran a red light, which is one of the moving violations covered by A.R.S. Sections 28-674 and 28-675, and caused an unspeakable tragedy. She does not want this to happen to another family, so elevating this conduct by including the other reasons for driving on a suspended license will have a deterrent effect. In response to a question, she advised that the driver went to court where every citation for driving on a suspended license was dismissed, so he was never convicted for driving on a suspended driver license. He was tried in Tucson City Court in relation to this accident and sentenced to 75 days; however, the court saw fit to suspend and stay that while he appeals, so he has not been subject to any accountability whatsoever.

Discussion followed about a requirement in statute to impound someone's car if an individual is driving on a suspended license. Ms. Mayer surmised that may be related to specific traffic violations such as driving under the influence (DUI), which she will look into for the Members.

Ms. Fann remarked that she always likes to make sure there are no unintended consequences and asked what will happen if an elderly woman forgets to pay a ticket and her foot slips off the pedal. Ms. Mayer responded that scenario involves probation-available offenses. If the woman's failure to have the driver license reinstated is due to an oversight and not intentional, the judge can have the woman take care of the fines and place her on six months' probation. The judge will have the discretion to impose penalties from a full three-year term of probation to as little as six months or less, depending upon the violator and the degree of violation. She acknowledged that the offense has to result in serious injury or death to be subject to the felony penalty.

Ms. Mayer concluded by stating that the Pima County Attorney's Office does not like to overreact in a one-case situation and change the law, but sometimes gaps are in the law that do not seem right.

Carole Bartholomeaux, Community Activist, representing self, spoke in favor of HB2523. She conveyed that her grandmother was killed when a driver ran a red light while driving without a license or insurance in a stolen car, for which he was sentenced to only six months in jail. The judge said her grandmother was 65 and had lived her life, and the 33-year-old man had a right to live his life. On April 20, 2010, she received a call from her cousin who was very upset because his sister, Lorrie, her daughter, Casie Lea, and her granddaughter, Caia, were hit by a truck when the driver of the truck ran a red light. The driver was on his cell phone, speeding, driving with a suspended license and no insurance. She urged the Members to pass this bill because it should be a felony to drive without auto insurance or a license and injure people.

Vice-Chairman Gray announced the names of those who signed up in support of HB2523 but did not speak:

Kimberly MacEachern, Staff Attorney, Arizona Prosecuting Attorneys' Advisory Council
Mary Marshall, Public Information Officer/Legislative Liaison, Arizona Criminal Justice Commission

Vice-Chairman Gray announced the names of those who signed up in opposition to HB2523 but did not speak:

Bryan Ginter, representing self

Question was called on the motion that HB2523 do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 3).

HB2003 - emergency response services fees; prohibition - DO PASS AMENDED

Vice-Chairman Gray moved that HB2003 do pass.

Jonathon Bates, Majority Intern, explained that HB2003 stipulates that the regulation of emergency response service fees for motor vehicle accidents is a matter of statewide concern and not subject to regulation by a county, city, town or political subdivision (Attachment 4). The proposed amendment contains the following provisions (Attachment 5):

- Removes language prohibiting a political subdivision from seeking reimbursement.
- Replaces *public agency* with *county, city or town*.
- Eliminates the definition of *public agency*.
- Allows charges for fire or police services provided outside the boundaries of a city or town located in a county with a population of less than one million persons.

Mrs. McLain related that the amendment (Attachment 5) refers to the City of Page, which frequently responds to emergency calls on Highway 89 between Flagstaff and Page because the Navajo Nation cannot respond. She worked with Representative John Kavanagh and others on the amendment to allow small cities in rural areas that provide service outside their boundaries, because no other service is available, to recover some of the cost.

Representative John Kavanagh, sponsor, stated that in these tough fiscal times, some jurisdictions are trying to raise additional revenue by double charging for first responder responses, which are already paid for through taxes. Many exemptions were negotiated where charges will be allowed for good reasons, so he is comfortable with the bill and the amendment.

Don Isaacson, State Farm Insurance, spoke in support of HB2003. He stated that property casualty insurers have noticed that cities in a number of locations around the country are trying to charge for core governmental services. This bill will prevent cities and counties from double charging. He endorsed the amendment, noting that it limits application to the cities, towns and counties and addresses situations like the City of Page, which he did not know about when the bill was drafted. In response to a question, he indicated that to his knowledge, this has not occurred in Arizona; HB2003 is preemptive legislation.

Ellen Poole, Executive Director, Southwest Region Government Relations, USAA, spoke in favor of HB2003. She stated that the City of Denver was facing a budget deficit of \$6 million in the state budget and decided to charge people for police and fire response to auto accidents within the City, using a schedule of charges. A contingent fee entity has been going to cities and offering to submit the bills to auto insurance companies of people in accidents and take a percentage; however, people were generally not covered under the terms of their policy, so customers were upset with the insurance company for not paying the bill rather than the City for sending the bill. In one instance, a bill was received from the City for \$600. The insured was told it was not covered and told to call the City. When he called, he was asked to submit \$200, which raised the question of whether the fees had any relationship to the actual cost of providing the fire and police service. She noted that in Denver, the vote to fill the budget deficit in that way failed; it is no longer done because there was much public outcry.

Dale Wiebusch, Legislative Associate, League of Arizona Cities and Towns, opposed to HB2003, indicated that no Arizona cities and towns are doing this and expressed appreciation for the amendment.

A brief discussion followed about limiting the ability of cities and towns to collect revenues when state-shared revenues are decreasing, which Chairman Williams opined is not germane to the bill.

Vice-Chairman Gray announced the names of those who signed up in support of HB2003 but did not speak:

Kerry Hayden, Government Affairs Representative, Farmers Insurance Group of Companies
Lanny Hair, Executive Vice President, Independent Insurance Agents and Brokers of Arizona
Lorna Romero, Director of Government Relations, Arizona Chamber of Commerce and Industry
Norman Moore, Attorney, State Farm Insurance
Jacqueline Walker, City of Kingman
Wendy Briggs, Lobbyist, American Insurance Association

Vice-Chairman Gray announced the names of those who signed up in opposition to HB2003 but did not speak:

Bryan Ginter, representing self

Vice-Chairman Gray moved that the McLain eight-line amendment to HB2003 dated 2/9/11 (Attachment 5) be adopted. The motion carried.

Vice-Chairman Gray moved that HB2003 as amended do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 6).

HB2318 - regional and public transportation authorities - DO PASS

Vice-Chairman Gray moved that HB2318 do pass.

Jonathon Bates, Majority Intern, explained that HB2318 expands the list of possible members of the public transportation authority as well as updates and clarifies existing statute (Attachment 7).

Representative Russ Jones, sponsor, related that the bill changes the population threshold to 400,000 or fewer so the smaller counties can create a transportation authority if voters choose to do so, and includes tribal lands and community colleges. In response to a query as to why a community college would want to be part of a transportation authority that might be created, he explained that in Yuma County, Arizona Western College (AWC) is a distance away from the city. There is a transit system the community college helps support financially through the Yuma Metropolitan Planning Organization, so students at the college have access to public transportation. It is permissible to create up to a half-cent sales tax for transportation infrastructure or transit, which is important when all of the Local Transportation Assistance Fund (LTAF) monies were removed and counties and cities did not have the money to sustain their transit systems.

Todd Madeksza, Director of Legislative Affairs, County Supervisors Association, spoke in favor of HB2318. He stated that this proposal was adopted by the County Supervisors during the past fall at a legislative summit.

Vice-Chairman Gray announced the names of those who signed up in support of HB2318 but did not speak:

Jen Sweeney, Government Affairs Director, Arizona Association of Counties

Eric Emmert, Yuma County

Vice-Chairman Gray announced the names of those who signed up in opposition to HB2318 but did not speak:

Bryan Ginter, representing self

Question was called on the motion that HB2318 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 8).

HB2319 - primitive roads; county maintenance - DO PASS

Vice-Chairman Gray moved that HB2319 do pass.

Joe DeMenna, Majority Assistant Research Analyst, explained that HB2319 permits the Board of Supervisors to spend public funds for maintenance of roads and streets that have been designated as primitive roads (Attachment 9).

Representative Russ Jones, sponsor, stated that a bill sponsored last session to create the designation of primitive roads inadvertently did not include the capacity to spend money for maintenance of those roads, which is what this bill does.

Todd Madeksza, Director of Legislative Affairs, County Supervisors Association, spoke in favor of HB2319. He acknowledged that this is a technical cleanup bill so money can be spent to grade the roads and perform minimal maintenance.

Vice-Chairman Gray announced the names of those who signed up in support of HB2319 but did not speak:

Jen Sweeney, Government Affairs Director, Arizona Association of Counties

Vice-Chairman Gray announced the names of those who signed up in opposition to HB2319 but did not speak:

Bryan Ginter, representing self

Question was called on the motion that HB2319 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 10).

Without objection, the meeting adjourned at 10:08 a.m.

Linda Taylor, Committee Secretary
February 22, 2011

(Original minutes, attachments and audio on file in the Chief Clerk's Office; video archives available at <http://www.azleg.gov>)