

Fourth Session - Thirty-Eighth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Justice

Chairperson
Ms. Marilyn Brick
Constituency of St. Norbert

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

Member	Constituency	Political Affiliation
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**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON JUSTICE**

Thursday, December 8, 2005

TIME – 10 a.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Ms. Marilyn Brick (St. Norbert)

VICE-CHAIRPERSON – Mr. Cris Aglugub (The Maples)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Mr. Mackintosh, Hon. Ms. Wowchuk

Mr. Aglugub, Ms. Brick, Messrs. Caldwell, Cullen, Dewar, Eichler, Fauschou, Goertzen, Swan

MATTERS UNDER CONSIDERATION:

Bill 9–The Farm Practices Protection Amendment Act

Bill 18–The Highway Traffic Amendment Act (Countermeasures Against Impaired Drivers and Other Offenders)

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Clerk Assistant (Ms. JoAnn McKerlie-Korol): Good morning. Will the Standing Committee on Justice please come to order. The first item of business is the election of a Chairperson. Are there any nominations?

Mr. Gregory Dewar (Selkirk): Thank you, I nominate Ms. Brick.

Clerk Assistant: Ms. Brick has been nominated. Are there any other nominations?

Seeing none, Ms. Brick, please take the Chair.

Madam Chairperson: The next item of business is the election of a Vice-Chairperson. Are there any nominations?

Mr. Dewar: Yes, I nominate Mr. Aglugub.

Madam Chairperson: Mr. Aglugub has been nominated. Are there any further nominations?

Seeing none, Mr. Aglugub has been appointed Vice-Chairperson.

This morning, this committee will be considering the following bills: Bill 9, The Farm Practices Protection Amendment Act; Bill 18, The Highway Traffic Amendment Act (Countermeasures Against Impaired Drivers and Other Offenders).

There are no presenters to either of these bills.

Shall we proceed with clause by clause consideration of Bill 9 and Bill 18? If yes, in what order do you wish to consider these bills?

Mr. Kelvin Goertzen (Steinbach): Madam Chairperson, in reference to Bill 18, I just have a couple of brief questions that I would like to ask the minister. So, if we could just do a global discussion on questions, and then I think we will quickly proceed to do the line by line.

Madam Chairperson: Is it agreed to do Bill 18 first? *[Agreed]*

Bill 18–The Highway Traffic Amendment Act (Countermeasures Against Impaired Drivers and Other Offenders)

Madam Chairperson: Minister Mackintosh, did you want to come sit up at the table?

Does the minister responsible for Bill 18 have an opening statement?

Hon. Gord Mackintosh (Minister of Justice and Attorney General): There was a question from the opposition on the available statistics on the incidence of convictions for impaired driving in any states that we have the informal agreements with, in terms of demerits, which would comprise North Dakota and Minnesota, I am advised.

I just received a note late yesterday that they have not yet got that information. A special program, they say, had to be created and run. Manual stats are not available, so we do not have the incidence yet. As I recall, the anecdotal recollection of the Transportation and Government Services staffperson was that the numbers were not significant. I do not know, there is a lot of interpretation on that word, but I certainly hope they are not significant. I hope they are not high in number. But we will provide those statistics as soon as they become available.

I have just asked staff if they have a sense as to when they may come available, and we do not know that. But we will make them available when they are produced.

Madam Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mr. Goertzen: Other than it kind of, probably, forms more of a question, but the minister addressed it in his opening statement regarding those statistics. I assume, then, that they will be coming at some point, though?

An Honourable Member: We will make them available to you.

Mr. Goertzen: I appreciate the minister's undertaking on that.

Madam Chairperson: We thank the member.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Clause 1—pass. Shall clause 2 pass?

Mr. Goertzen: This is probably in the form more of a general question, but it will probably be the last one that I will have for the minister. So you will indulge me, I hope.

This actually, to give credit where credit is due, came from a law student from the University of Manitoba who inquired of me. He is writing a paper on drinking and driving legislation in the province, and it was his observation that the legislation that is coming forward from the government seems to be almost in a piecemeal sense. He was not opposed to the legislation, nor am I. But this particular piece of legislation, there was last session one dealing with some type of penalties, which our party supported as well.

His question was, and maybe it was also a recommendation, he was wondering whether or not there was sort of a working group within the department that was looking at broader issues so that, perhaps, all these kinds of changes that need to be done—and this was one of those dealing with discharges and such—ensuring that they fall under the same legislation, whether or not there was an overall scheme or direction that the department would come out with as opposed to, seemingly, in his observation, having smaller pieces of legislation

regarding drinking and driving coming out session after session after session.

Mr. Mackintosh: First, in terms of this bill, these were areas that were identified as some shortcomings and some gaps being addressed. I think it arguably goes beyond gaps when it comes to the U.S. conviction issue from Transportation and Government Services. So we thought that, having been made aware of these issues, it was important to bring the bill in on a timely basis, and I appreciate the support of the House in moving it ahead.

Since coming into office, we have, I believe in every session, introduced legislation, so I certainly take the student's view that there has not been some huge single comprehensive piece. But it was for a good reason that we have introduced changes in the way we have. We began by introducing tiered sanctions, which was something that we thought had to be addressed as a result of analysis, particularly by the Traffic Injury Research Foundation and others, that said that we should be focussing on the highest risk drivers, those who blow over 0.15, for example. So we dealt with that. Then, as we completed the research on ignition interlocks, we introduced that and then on forfeitures. Child endangerment came last year as a result of research on that area that had been brought to our attention as an initiative that had been working in about half the U.S. states, as I recall.

So the introduction has come as a result of the ongoing work and the research that has been building across the continent. As well, though, it is dependent on working group functioning with law enforcement. The standard field sobriety test, for example, had been in the works for several years as a result of an ongoing working group with Winnipeg Police Service and the RCMP. That initiative actually came to us from a recommendation of the Winnipeg Police Service. So that developed in its own time because of the consultative process required because it is so intricately involved with law enforcement.

* (10:10)

The general program of our administration has been based on consultations that took place very early on, coming into office, at a forum where stakeholders were invited from law enforcement, from MADD, from TIRF, from the addictions community, and they came together in a forum called Partners in Prevention, focussing on where the new government could go in terms of enhancing our statutory response to impaired driving.

I can advise the member that work is continuing to be ongoing. I expect that there will be further legislative initiatives proposed on impaired driving. I can tell the member as well that we have had ongoing discussions, and we have been listening to the advice of other organizations like the law enforcement. So we will continue to introduce measures to be state of the art here in Manitoba, and, as the member knows, we have been recognized for having the strongest regime on impaired driving in Canada now. I think that was a hallmark in the early nineties of the former administration. I think now we are back on track to maintain Manitoba's leadership across two administrations in this area.

Madam Chairperson: Clause 2–pass; clause 3–pass; clause 4–pass; clause 5–pass; clause 6–pass; enacting clause–pass. Shall the title pass?

Mr. Goertzen: I just want to take this opportunity to thank the staff who was involved with the formation of the legislation for the ongoing work that they do in the Department of Justice on these issues. I have had the opportunity to study at Robson Hall with some of the staff that were involved in this initiative, and I commend them for the work that they are doing and continue to do in servicing the province of Manitoba and the issues.

Madam Chairperson: Title–pass. Bill be reported.

Bill 9–The Farm Practices Protection Amendment Act

Madam Chairperson: Does the minister responsible for Bill 9 have an opening statement?

Hon. Rosann Wowchuk (Minister of Agriculture, Food and Rural Initiatives): Madam Chairperson, I would just like to make a few brief comments to indicate that this is a minor amendment to the bill, but the purpose for the amendment is to afford members and acting members and other persons acting in the authority of the act protection from personal liability for anything that is done in good faith in the performance of their duties of administering the act, and for negative or default in the performance exercised in good faith.

The board members here deal with difficult situations, and what we are doing is changing the way that they are protected. Right now under the existing act there is a liability protection, but this protection is put in place through the use of an indemnification agreement. Each time a person is appointed, this indemnification agreement has to be completed. Through that indemnification agreement they do have protection, but by changing it to be included in the act, this brings it in line with other statutes where bodies that are appointed, appointed bodies, have the protection through statute to protect them from liability. So that is the purpose of the act, and it is bringing it in line with other statutes.

Madam Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mr. Ralph Eichler (Lakeside): Yes, Madam Chairman, I just want it put on the record that we have supported the changes to Bill 9, and I want to thank the staff for their hard work that they have put in to making sure the bill is now changed for the implications for the board members. I look forward to moving on to third and final reading.

Madam Chairperson: We thank the member. During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Clause 1–pass; clause 2–pass; clause 3–pass; enacting clause–pass; title–pass. Bill be reported.

That concludes the business before this committee.

What is the will of the committee?

Some Honourable Members: Committee rise.

Madam Chairperson: Committee rise? The hour being 10:15 a.m., committee rise.

COMMITTEE ROSE AT: 10:15 a.m.