11.0509.01000

Sixty-second
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1256

Introduced by

Representatives Keiser, Dahl, Nathe, Ruby, Gruchalla

A BILL for an Act to create and enact a new subsection to section 39-01-01 and a new paragraph to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to definitions and demerit points; to amend and reenact subsection 1 of section 39-06-03, sections 39-06-04, 39-06-14, 39-06-17, 39-06-36, subsection 3 of section 39-06-42, section 39-06-43, subsection 1 of section 39-06.1-08, and subsection 3 of section 39-06.1-11 of the North Dakota Century Code, relating to a graduated operator's license; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-01-01 of the North Dakota Century Code is created and enacted as follows:

"Electronic communication device" means an electronic device, including a wireless telephone, personal digital assistant, a portable or mobile computer or other device, and video display equipment. The term does not include a global positioning system or navigation system or a device that is physically or electronically integrated into the motor vehicle.

SECTION 2. AMENDMENT. Subsection 1 of section 39-06-03 of the North Dakota Century Code is amended and reenacted as follows:

1. To any person who is under the age of sixteen years, except that the director may issue a restricted permit ~~or license as hereinafter provided in sections~~under section 39-06-05 ~~and 39-06-17~~ to any person who is less than sixteen years of age and the director may issue a class D operator's license with intermediate conditions under section 39-06-14 to a person who is less than sixteen years of age.

SECTION 3. AMENDMENT. Section 39-06-04 of the North Dakota Century Code is amended and reenacted as follows:

39-06-04. Instruction permit.

1. Any ~~person~~resident of this state who is at least fourteen years of age may apply to the director for ~~an~~a class D instruction permit.
2. The director may issue ~~to the applicant an~~a class D instruction permit that entitles the applicant while having ~~such~~the permit in the permittee's immediate possession to drive a motor vehicle upon the public highways ~~for a period of one year when~~, if the individual:
   a. Has successfully passed a standard written rules of the road knowledge test prescribed by the director;
   b. Has successfully passed a vision examination; and
   c. Has the written approval of the individual's parent or legal guardian.
3. The permittee must be accompanied by a licensed operator who holds a license corresponding to the vehicle the permittee operates, who is at least eighteen years of age, who has had at least three years of driving experience, and who is occupying a seat beside the driver. An individual other than the supervising driver and the permitholder may not be in the front seat unless the vehicle has only a front seat, in which case, the supervising driver must be seated next to the permitholder. ~~Persons holding an instruction permit for the operation of a motorcycle shall operate the motorcycle only during hours when the use of headlights is not required pursuant to section 39-21-01, and may not carry or transport any passenger. Any instruction permit may be renewed or a new permit issued for an additional period.~~
4. ~~A person~~An individual who is not yet eighteen years of age is not eligible for a license until that ~~person~~individual has had an instruction permit issued for at least six months or at least twelve months if under the age of sixteen. The director may recognize an instruction permit issued by another jurisdiction in computing the six-month or twelve-month instructional period.
5. The permittee may not operate an electronic communication device to talk, compose, read, or send an electronic message while operating a motor vehicle that is in motion unless the sole purpose of operating the device is to obtain emergency assistance, to prevent a crime about to be committed, or in the reasonable belief that an individual's life or safety is in danger.

6. A resident of this state who is at least fourteen years of age may apply to the director for a class M learner's permit under section 39-06-14. An individual holding a class M learner's permit for the operation of a motorcycle may not operate the motorcycle during the hours when the use of headlights are required under section 39-21-01 or carry or transport any passenger. Any learner's permit may be renewed or a new permit issued for an additional period.

7. The director may issue a commercial driver's instruction permit under section 39-06.2-07.

SECTION 4. AMENDMENT. Section 39-06-14 of the North Dakota Century Code is amended and reenacted as follows:

39-06-14. Licenses issued to operators - General - Classified driver's license.

1. The director, upon payment of a ten dollar fee, shall issue to every qualified applicant an operator's license as applied for in the form prescribed by the director. The license must bear a distinguishing number assigned to the licensee, a color photograph of the licensee, the full name, date of birth, residence address, and a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write the licensee's usual signature. The director may not issue a distinguishing number that is, contains, can be converted to, or is an encrypted version of the applicant's social security number. If the licensee is under the age of eighteen, the photograph must be against a color border or background that is different from the color used for other licensees. If the licensee is at least the age of eighteen and is under the age of twenty-one, the photograph must be against a color border or background that is different from the color used for other licensees. If requested on the license application, the license issued by the director must include a statement making an anatomical gift under chapter 23-06.6. Voluntary identification of the applicant as a donor under chapter 23-06.6 also may be completed by an online registry approved by the director. If the applicant's donor intention is made by the online registry, the intention must be recorded on the applicant's record. The intention is not required on the license unless a duplicate license is obtained or at the time of renewal. The department may not be held civilly or criminally liable for any act or omission in implementing and maintaining the online registration of donors. No license is valid until

it has been signed by the licensee with the licensee's usual signature. For purposes of verification, an officer may require the licensee to write the licensee's signature in the presence of the officer. The director may adopt rules, pursuant to chapter 28-32, relating to the manner in which photographs are to be obtained and placed on operator's licenses. The photograph may be produced by digital imaging or other electronic means and is not a public record.

2. An applicant holding a valid North Dakota operator's license making application for renewal must be issued a class D license without being subjected to an examination.

3. An applicant, except an applicant holding a valid North Dakota operator's license who will be issued a class D license, applying for issuance of an operator's license must be issued a classified license after having been required to submit to an examination in the type of motor vehicle or combination of vehicles for which license is desired and which license shall authorize the holder to drive the vehicles as provided in section 39-06.2-09, or as follows:

   a. A driver with a class D license may operate any single vehicle with a gross vehicle weight rating of twenty-six thousand pounds [11793.40 kilograms] or less or any such vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand pounds [4535.92 kilograms]. A driver with a class D license may operate a farm tractor towing another vehicle having a gross weight in excess of ten thousand pounds [4535.92 kilograms], and a truck towing a trailer, semitrailer, or farm trailer when the gross weight of the trailer, semitrailer, or farm trailer, not including the weight of the towing vehicle, does not exceed sixteen thousand pounds [7257.48 kilograms]. A driver with a class D license may operate a house car or a vehicle towing a travel trailer being used solely for personal purposes.

   b. A driver with a class D license may operate any two-axle or tandem-axle motor vehicle, a farm tractor towing another vehicle having a gross weight in excess of six thousand pounds [2721.55 kilograms], and a truck or truck tractor towing a trailer, semitrailer, or farm trailer if the driver is exempted from a commercial driver's license under subsection 3 of section 39-06.2-06, except the driver may not operate a double trailer, triple trailer, or, if under eighteen years of age, a

truck tractor as defined in section 39-01-01 or a bus designed to carry sixteen or more passengers, including the driver.

c. A driver with a class M license may operate any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding motorized bicycles and tractors. A class M vehicle may not be operated under a class A, B, C, or D license.

(1) The holder of a class A, B, C, or D license may receive a class M endorsement upon successful completion of an examination. The director may waive the skill portion of the examination if the applicant has successfully completed a motorcycle safety course approved by the director.

(2) An applicant sixteen years of age and older, who does not hold a current valid operator's license may be issued a class M learner's permit after successful completion of a written examination. The class M license will be issued after the applicant has successfully completed a driver's examination. The director may waive the skill portion of the examination if the applicant has successfully completed a motorcycle safety course approved by the director.

(3) Applicants fourteen or fifteen years of age may be issued a motorcycle learner's permit if the applicant is enrolled in or has completed an approved motorcycle safety course. Applicants for a motorcycle operator's license who are under sixteen years of age shall hold an initial learner's permit for at least two months before applying for a class M operator's license, shall have completed an approved motorcycle safety course, and shall hold a valid motorcycle learner's permit at the time of application. The director may waive the skill portion of the examination if the applicant has successfully completed a motorcycle safety course approved by the director. Any person under sixteen years of age who holds a permit or license is restricted to the operation of a motorcycle powered with an engine of two hundred fifty cubic centimeters, or less, displacement. Evidence that the applicant has satisfactorily completed a motorcycle safety course which meets the

minimum requirements of the motorcycle safety foundation must accompany the application.

4. The holder of a class A, B, or C license may drive any vehicle in that or a lesser classification, except a class M vehicle.

5. The director may issue a class D operator's license with intermediate conditions to an individual at least sixteen years of age and under eighteen years of age if the individual:

   a. Has successfully completed an examination of actual driving ability. For operators fifteen years of age the road test may be taken in a motor vehicle that is not the parent's or guardian's.

   b. Held an instruction permit under section 39-06-04.

   c. Submits an affidavit signed by that individual and by a parent or legal guardian which states that the individual has accumulated a minimum of fifty hours of supervised, behind-the-wheel driving experience in various driving conditions and situations that include night driving; driving on a gravel, dirt, or aggregate surface road; driving in both rural and urban conditions; and driving in winter conditions.

   d. Successfully completed an approved driver's education course that includes a course of classroom instruction and a course of behind-the-wheel instruction acceptable to the director or a course at an approved commercial driver training school.

6. An individual with a class D operator's license with intermediate conditions may not:

   a. Operate a motor vehicle with more than one passenger unless a parent, legal guardian, or adult is in the front seat of the vehicle or the additional passengers are siblings, including a step, half, and adopted sibling, of the driver and the motor vehicle is being operated solely to go to or from school.

   b. Operate a motor vehicle between the hours of nine p.m. and five a.m. unless the motor vehicle is being driven directly to or from work, an official school activity, or a religious activity.

   c. Operate an electronic communication device to compose, read, or send an electronic message while operating a motor vehicle that is in motion unless the sole purpose of operating the device is to obtain emergency assistance, to

prevent a crime about to be committed, or in the reasonable belief that an individual's life or safety is in danger.

d. Operate any vehicle other than a parent's or guardian's motor vehicle.

7. Subsection 6 does not authorize a child to drive a commercial truck, motorbus, or taxicab, except the holder of a class D operator's license with intermediate conditions who is at least fifteen years of age may drive a farm motor vehicle having a gross weight of fifty thousand pounds [22679.62 kilograms] when used to transport agricultural products, farm machinery, or farm supplies to or from a farm if operated within one hundred fifty miles [241.40 kilometers] of the driver's farm.

8. Except as otherwise provided by this section, the class D operator's license with intermediate conditions converts to a class D operator's license without condition at the conclusion of the intermediate phase.

9. The intermediate phase of the class D operator's license applies for twelve months from the date of license issuance, except that a minimum of six months must be completed if the licensee becomes sixteen years of age during the intermediate phase or is sixteen years of age or older upon license issuance. At eighteen years of age a class D operator's license with intermediate conditions converts to a full unrestricted class D operator's license, unless the driver is not in compliance with other provisions of this title.

10. Any holder of a classified license who drives a motor vehicle otherwise than as permitted by the class of license issued to the holder is deemed to be driving a motor vehicle without being duly licensed under this chapter. The holder of a classified license who desires to obtain a different class license in one of the classes provided by this chapter must exchange or renew the license. The director may adopt rules the director determines are necessary with respect to such renewals or exchanges for the proper administration of this chapter. No class A, B, or C license may be issued to any person under eighteen years of age, except a class A, B, or C type license specially restricted to use for custom harvest purposes must be issued to a person at least sixteen years of age who satisfactorily completes the appropriate examinations.

~~6.~~11. Before operating any motor vehicle or motorcycle, any holder of a license issued pursuant to this chapter who has suffered permanent loss of use of a hand, arm, foot,

leg, or eye shall report the loss of use to the director who shall take reasonable action as may be proper under the provisions of this chapter as to reexamination of the licensee to determine if the licensee is capable of operating vehicles for which the licensee is licensed.

~~7.~~12. The director may issue a motorized bicycle operator's permit to an applicant who is at least fourteen years of age. To obtain a permit, the applicant shall pay a fee of ten dollars and take a written examination of the applicant's knowledge of traffic laws and general rules of the road. If the applicant passes the written examination and the director is satisfied that the applicant has adequate eyesight, the director may issue the applicant a motorized bicycle operator's permit, even if the applicant does not have an operator's license. The permit expires in the same manner as an operator's license. A person who has an operator's license, a temporary permit, an instruction permit, or a motorcycle permit is not required to obtain a motorized bicycle operator's permit.

SECTION 5. AMENDMENT. Section 39-06-17 of the North Dakota Century Code is amended and reenacted as follows:

39-06-17. Restricted licenses - Penalty for violation.

1. The director, upon issuing an operator's license or a temporary restricted operator's license pursuant to section 39-06.1-11, has authority to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the director may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.
2. The director may either issue a special restricted license or may ~~set forth such~~state the restrictions upon the usual license form. ~~The~~In the same manner, the director shall ~~likewise~~ restrict licenses ~~pursuant to the requirements of~~ under section 39-16.1-09.
3. ~~A restricted operator's license or permit to operate the parent's or guardian's automobile, or an automobile which is equipped with dual controls and while accompanied by a qualified instructor, may be issued to any child, who is at least fourteen years of age, and otherwise qualified, upon the written recommendation of the parent or guardian. A child may operate an automobile that is not the parent's or guardian's to take the road test. No operator's license may be issued until the child,~~

~~accompanied by the parent or guardian, appears in person and satisfies the director that:~~

~~a. The child is at least fourteen years of age.~~

~~b. The child is qualified to operate an automobile safely.~~

~~c. It is necessary for the child to drive the parent's or guardian's automobile without being accompanied by an adult.~~

~~d. The child has:~~

~~(1) Completed a course of classroom instruction and a course of behind-the-wheel instruction acceptable to the director; or~~

~~(2) Successfully completed a course at an approved commercial driver training school.~~

~~The parent or guardian at all times is responsible for any and all damages growing out of the negligent operation of a motor vehicle by any such child. The provisions of this subsection do not authorize the child to drive a commercial truck, motorbus, or taxicab except the holder of a class D license, fourteen or fifteen years of age, may drive a farm motor vehicle having a gross weight of fifty thousand pounds [22679.62 kilograms] when used to transport agricultural products, farm machinery, or farm supplies to or from a farm when so operated within one hundred fifty miles [241.40 kilometers] of the driver's farm.~~

~~4.~~ ~~The director may upon~~Upon receiving satisfactory evidence of any violation of the restrictions of ~~such~~a license, the director may suspend or revoke the ~~same~~license but the licensee is entitled to a hearing as upon a suspension or revocation under this chapter.

~~5.~~4. It is a class B misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to that person ~~other than restrictions imposed under subsection 6~~. If the restricted license was issued under section 39-06.1-11 and the underlying suspension was imposed for a violation of section 39-08-01 or equivalent ordinance, or is governed by chapter 39-20, punishment is as provided in subsection 2 of section 39-06-42 and upon receiving notice of the conviction the director shall revoke, without opportunity for hearing, the licensee's restricted license and shall extend the underlying suspension for a like

period of not more than one year. The director may not issue a restricted license for the extended period of suspension imposed under this subsection. If the conviction referred to in this section is reversed by an appellate court, the director shall restore the person to the status held by the person prior to the conviction, including restoration of driving privileges if appropriate.

~~6. A restricted license issued under subsection 3 to a child at least fourteen years of age to operate a parent's or guardian's automobile authorizes the licenseholder to drive the type or class of motor vehicle specified on the restricted license only under the following conditions:~~

~~a. A restricted licenseholder must be in possession of the license while operating the motor vehicle.~~

~~b. An individual holding a restricted driver's license driving a motor vehicle may not carry more passengers than the vehicle manufacturer's suggested passenger capacity.~~

SECTION 6. AMENDMENT. Section 39-06-36 of the North Dakota Century Code is amended and reenacted as follows:

39-06-36. Restoration of revoked licenses.

Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked is not entitled to have such license or privilege renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of the revocation period such person may make application for a new license as provided by law, but the director may not then issue a new license unless and until the director is satisfied after investigation of the individual's driving records, driving habits, and driving ability of such person that it will be safe to grant the privilege of driving a motor vehicle on the public highways. A person whose license or privilege to drive a motor vehicle has been revoked must pay to the director a revocation reinstatement fee of fifty dollars, or one hundred dollars if the revocation was imposed for violation of subsection ~~5~~4 of section 39-06-17, section 39-06-31, 39-06-43, or 39-20-04, in addition to any license renewal fee, for issuance of a new license. Until the reinstatement fee is paid the license and privilege to drive a motor vehicle remain under revocation. A reinstatement fee is not required if a revoked license is reinstated due to the

findings of a hearing, reexamination of hearing, or court or judicial review as provided under chapter 39-06, 39-06.1, or 39-20.

SECTION 7. AMENDMENT. Subsection 3 of section 39-06-42 of the North Dakota Century Code is amended and reenacted as follows:

3. In addition to any other punishment imposed, the court may order the number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the sheriff for the duration of the period of suspension or revocation. When a period of suspension has been extended under subsection ~~5~~4 of section 39-06-17, the court may order the number plates to be impounded in accordance with this subsection. The impounded number plates may be released, upon order of the court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title to the motor vehicle issued by the director.

SECTION 8. AMENDMENT. Section 39-06-43 of the North Dakota Century Code is amended and reenacted as follows:

39-06-43. Extension of license suspension or revocation.

1. The director upon receiving a record of the conviction of any person upon a charge of driving a vehicle while the license or driving privileges of the person were suspended shall extend the period of that suspension for an additional:

~~1.~~ a. Like period not to exceed ninety days if the operator's record for the three years preceding the most recent violation of section 39-06-42 or equivalent ordinance shows the person's operator's license or privilege has not been suspended, revoked, or denied for a prior violation of section 39-06-42 or equivalent ordinance;

~~2.~~ b. One hundred eighty days if the operator's record for the three years preceding the most recent violation of section 39-06-42 or equivalent ordinance shows the person's operator's license or privilege has been once suspended, revoked, or denied for a prior violation of section 39-06-42 or equivalent ordinance; or

~~3.~~ c. One year if the operator's record for the three-year period preceding the most recent violation of section 39-06-42 or equivalent ordinance shows the person's operator's license or privilege has been at least twice suspended, revoked, or denied for a prior violation of section 39-06-42 or equivalent ordinance.

2. If the original suspension was imposed for violation of section 39-08-01 or equivalent ordinance, the director shall extend the period of that suspension for at least six months. If the suspension of driving privileges resulted solely from failure to appear in court or to post and forfeit bond on noncriminal traffic violations, there may be no additional period of suspension. Suspension periods for failure to appear or to post and forfeit bond on noncriminal traffic violations may be for an indefinite duration. If the conviction was upon a charge of driving while a license or driving privileges were revoked, the director may not issue a new license for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license. Upon a conviction of a person for violating a restricted license issued under section 39-06.1-11 and in which the underlying suspension was imposed for violating section 39-08-01 or equivalent ordinance or is governed by chapter 39-20, the director shall extend the period of the underlying suspension in accordance with subsection 5 of section 39-06-17.

SECTION 9. AMENDMENT. Subsection 1 of section 39-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

1. A violation of section 39-04-11~~, subsection 6 of section 39-06-17, and section~~ 39-06-44, 39-06-45, 39-10-47, 39-10-49, 39-10-50, 39-10-51, 39-10-54.1, 39-21-08, 39-21-10, 39-21-11, or 39-21-14, or a violation of any municipal ordinance equivalent to the foregoing sections.

SECTION 10. A new paragraph to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

Driving in violation of the conditions of an instruction permit or class D operator's license with intermediate conditions	2 points

SECTION 11. AMENDMENT. Subsection 3 of section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

3. The director may not issue a temporary restricted license for a period of license revocation or suspension imposed under subsection ~~5~~4 of section 39-06-17 or section 39-06-31. A temporary restricted license may be issued for suspensions ordered under

subsection 7 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct.

SECTION 12. APPLICATION. This Act applies to permits and licenses issued after January 1, 2012, and does not effect a valid permit or license issued before the effective date of this Act.