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Sixty-second
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED 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, a new paragraph to subdivision b of subsection 3 of section 39-06.1-10, and a new section to chapter 39-08 of the North Dakota Century Code, relating to demerit points and using an electronic communication device; to amend and reenact subsection 1 of section 39-06-03 and sections 39-06-04, 39-06-17, and 39-06.1-09 of the North Dakota Century Code, relating to a graduated operator's license and a moving violation; 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~~under sections 39-06-05 and 39-06-17 to any 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 39-06-17 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~~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

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

e. The child 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 gravel, dirt, or aggregate surface road; driving in both rural and urban conditions; and winter driving conditions.

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. 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.

   c. An individual holding a restricted driver's license driving a motor vehicle 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.

   d. An individual holding a restricted driver's license may not operate a motor vehicle between the later of sunset or nine p.m. and five a.m. unless a parent, legal guardian, or an individual eighteen years of age or older is in the front seat of the motor vehicle or the motor vehicle is being driven directly to or from work, an official school activity, or a religious activity.

SECTION 5. AMENDMENT. Section 39-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-09. Moving violation defined.

For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01, 39-06-14, 39-06-16, section 7 of this Act, 39-09-04.1, 39-09-09, subsection 1 of section 39-12-02, sections 39-12-04, 39-12-05, 39-12-06, 39-12-09, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5, or equivalent ordinances; or a violation of the provisions of

chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except subsection 5 of section 39-10-26, sections 39-21-44 and 39-21-45.1, subsections 2 and 3 of section 39-21-46, and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

SECTION 6. A new paragraph to subdivision b 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	2 points

SECTION 7. A new section to chapter 39-08 of the North Dakota Century Code is created and enacted as follows:

Use of an electronic communication device by minor prohibited.

An individual at least sixteen and under eighteen years of age who has been issued a class D license 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.

SECTION 8. 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.