

**Sixty-third Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1027  
(Legislative Management)  
(Commission on Alternatives to Incarceration)

AN ACT to amend and reenact subsection 5 of section 39-06-17 and sections 39-06-42 and 39-06.1-11 of the North Dakota Century Code, relating to driving under suspension and the issuance of temporary restricted motor vehicle operator's licenses.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 5 of section 39-06-17 of the North Dakota Century Code is amended and reenacted as follows:

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.

**SECTION 2. AMENDMENT.** Section 39-06-42 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-42. Penalty for driving while license suspended or revoked - Impoundment of vehicle number plates - Authority of cities.**

1. Except as provided in section 39-06.1-11, any person who drives a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state while that person's license or privilege so to do is suspended or revoked in any jurisdiction is guilty of a class B misdemeanor for the first, second, or third offense within a five-year period. Any subsequent offense within the same five-year period is a class A misdemeanor.
2. If the suspension or revocation was imposed for violation of section 39-08-01 or equivalent ordinance or was governed by section 39-06-31 or chapter 39-20, the sentence must be at least four consecutive days' imprisonment and such fine as the court deems proper. The execution of sentence may not be suspended or the imposition of sentence deferred under subsection 3 or 4 of section 12.1-32-02. Forfeiture of bail is not permitted in lieu of the defendant's personal appearance in open court for arraignment on a charge under this subsection.
3. A court may dismiss a charge under this section upon motion by the defendant if the defendant's operator's license is reinstated within sixty days of the date of the offense and the defendant provides to the court satisfactory evidence of the reinstatement.
4. 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 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.

- 4.5. A city may, by ordinance, authorize its municipal judge to order impoundment of motor vehicle number plates in the manner provided in subsection 3.

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

**39-06.1-11. Temporary restricted license - Ignition interlock device.**

1. Except as provided under subsection 2 or 3, if the director has suspended a license under section 39-06.1-10 or has extended a suspension or revocation under section 39-06-43, upon receiving written application from the offender affected, the director may for good cause issue a temporary restricted operator's license valid for the remainder of the suspension period after seven days of the suspension period have passed.
2. If the director has suspended a license under chapter 39-20, or after a violation of section 39-08-01 or equivalent ordinance, upon written application of the offender the director may issue for good cause a temporary restricted license that takes effect after thirty days of the suspension have been served after a first offense under section 39-08-01 or chapter 39-20.
3. The director may not issue a temporary restricted license to any offender whose operator's license has been revoked under section 39-20-04 or suspended upon a second or subsequent offense under section 39-08-01 or chapter 39-20, except that a temporary restricted license may be issued for good cause if the offender has not committed an offense for a period of ~~two years~~one year before the date of the filing of a written application ~~that~~. The application must be accompanied by:
  - a. Proof of financial responsibility and a report from an appropriate licensed addiction treatment program and, if prescribed, proof of compliance with attendance rules in an appropriate licensed addiction treatment program; or if
  - b. If the offender is participating in the drug court program and has not committed an offense for a period of three hundred sixty-five days before the date of the filing of a written application that must be accompanied by or other court-ordered treatment or sobriety program, a recommendation from the district court. The
4. For a temporary restricted license under subsection 3, the director may conduct a hearing for the purposes of obtaining information, reports, and evaluations from courts, law enforcement, and citizens to determine the offender's conduct and driving behavior during the prerequisite period of time. The director may also require that an ignition interlock device be installed in the offender's vehicle and may require the applicant to submit proof of attendance at a driver training course approved by the director.
- 3.5. The director may not issue a temporary restricted license for a period of license revocation or suspension imposed under ~~subsection 5 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.
4. A
6. a. In addition to any restrictions authorized under section 39-06-17, the director may impose any of the following conditions upon the use of a restricted license issued under this section is solely for the use of a motor vehicle by the offender:

- (1) To use during the licensee's normal working hours and may contain any other restrictions authorized by section 39-06-17;
- (2) To use for attendance at an appropriate licensed addiction treatment program or a treatment program ordered by a court; or
- (3) To use as necessary to prevent the substantial deprivation of the educational, medical, or nutritional needs of the offender or an immediate family member of the offender.

b. Violation of a restriction imposed according to this section is deemed a violation of section 39-06-17.

5-7. If an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance and the offender's driver's license is not subject to an unrelated suspension or revocation, the director shall issue a temporary restricted driver's permit to the offender ~~only~~ for the sole purpose of participation in the twenty-four seven sobriety program upon submission of proof of financial responsibility and proof of participation in the program by the offender. If a court or the parole board finds that an offender has violated a condition of the twenty-four seven sobriety program, the court or parole board may order the temporary restricted driver's permit be revoked and take possession of the temporary restricted driver's permit. The court or the parole board shall send a copy of the order to the director who shall record the revocation of the temporary restricted driver's permit. Revocation of a temporary restricted driver's permit for violation of a condition of the twenty-four seven sobriety program does not preclude the offender's eligibility for a temporary restricted driver's license under any other provisions of this section.

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1027.

House Vote:    Yeas 94            Nays 0            Absent 0

Senate Vote:    Yeas 45            Nays 0            Absent 2

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2013.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2013.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2013,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State