

**INTERIM JUDICIARY COMMITTEE
May 6, 2014, 1:15 PM; Roughrider Room**

**North Dakota Department of Transportation
Glenn Jackson, Director, Driver's License Division**

Good afternoon, Mr. Chairman and members of the committee. I'm Glenn Jackson, Director of the Driver's License Division at the North Dakota Department of Transportation (NDDOT). Thank you for giving me the opportunity to present information to you today.

There are four items covered in this testimony. The first item is to clarify the process the department implemented relating to dual DUI/refusal convictions, and three remaining items are based on a review of the testimony provided at the January 23, 2014 Interim Judiciary Committee meeting.

1. Dual Conviction Processing. The department, in coordination with the Attorney General's Office, implemented a process of entering the dual convictions in the following manner. We enter the first and the second conviction in a dual conviction for a singular offense as a first conviction. This has the net impact of providing the required suspension time for a first conviction and providing the second conviction is on the record for enhancement in the event of a third conviction. To date, we have received thirteen dual convictions.

2. Minor Driver's. Mention was made in the January committee meeting that juveniles are not eligible for a temporary restricted license (TRL), sometimes referred to as a work permit, whether they do or do not participate in the 24/7 program. Per NDCC 39-06-01.1, once the director cancels the operator's license of a minor, the director shall deem the individual to have never been licensed, *Attachment 1, NDCC 39-06-01.1. Special Provisions for Minor Operators*. Based upon this, a minor is ineligible for a TRL for an alcohol violation.

3. Temporary Restricted License. As noted above, there are times when an individual is not eligible for a TRL. The procedure we follow to determine eligibility is located in *Attachment 2, Temporary Restricted License*. The mention in the January committee testimony was that individuals were denied a TRL if an individual appealed an implied consent suspension. Based upon our procedure, there is no means to deny a TRL because of an appeal. However, there may be other reasons why a refusal to issue a TRL occurred outside of the reason of an appeal. Each driver record is reviewed in depth to determine eligibility.

4. 24/7 Sobriety Program. Mention was made in the January committee meeting regarding the role of driver's license in the 24/7 Sobriety Program. The department does not administer the 24/7 Sobriety Program. However, we do enable individuals who are otherwise eligible for a TRL to obtain one. The process we have coordinated with the Attorney General's Office is one in which the individual who is not court ordered to participate may participate in the 24/7 program if accepted by law enforcement. In this case, the individual is provided a TRL request

form (*Attachment 3, Temporary Restricted License Request*). Simultaneously, the individual is provided with a cover letter stating the individual is, as of the date of the letter, otherwise eligible for a TRL and a 24/7 law enforcement form (*Attachment 4, Temporary Restricted License / Twenty-Four Seven Sobriety Program*). The individual takes these to law enforcement, who will process and send to the department. Once we receive this form from law enforcement and the application for a TRL from the individual, we process the request in a normal fashion. If an individual blows hot at a breath test, law enforcement will notify the department and we will revoke the TRL of the individual.

Thank you, Mr. Chairman, I would be happy to answer any questions.

Attachment 1. Special Provisions for Minor Operators

39-06-01.1. Special provisions for minor operators.

1. The director shall cancel the operator's license of an individual who has committed acts resulting in an accumulated point total in excess of five points as provided for a violation under section 39-06.1-10 or has committed an alcohol-related offense or a drug-related offense while operating a motor vehicle, if:

- a. The acts or offenses were committed while the individual was a minor; and
- b. The individual admitted the violation, was found to have committed the violation by the official having jurisdiction, or pled guilty to, was found guilty of, or adjudicated to have committed the offense.

2. If an individual has had that individual's license to operate a motor vehicle canceled under subsection 1, the director shall deem that individual to have never have had any license to operate a motor vehicle and may not issue any license to operate a motor vehicle other than an instruction permit or a restricted instruction permit after the completion of any period of suspension or revocation. After the issuance of an instruction permit or restricted instruction permit, the director may not issue any other operator's license to that individual until that individual:

- a. (1) Completes a course of classroom instruction and a course of behind-the-wheel instruction acceptable to the director;
- (2) Completes an internet course through a licensee under chapter 39-25 and completes thirty hours of driving with that individual's parent or guardian in compliance with department rules designed for experience in various driving conditions; or
- (3) Successfully completes a course at an approved commercial driver training school; and
- b. Satisfies all other requirements that apply to that individual for that operator's license.

Attachment 2, Temporary Restricted License

Category:	Driver Record Services
Subject:	Temporary Restricted License
File:	S-1
Implemented:	07-01-81
Revised:	05-01-13

DRIVERS LICENSE DIVISION

- I. Temporary restricted licenses cannot be issued under the following circumstances based upon NDCC and/or Administrative Rule:
- A. Any license revocation, except those permitted by NDCC 39-06.1-11 or if the driver is suspended under NDCC 39-06-32(4).
 - B. When an alcohol or drug-impaired driver has contributed to the cause of death or serious bodily injury of another person per Administrative Rule 37-03-04-01.1(5)
 - C. Anyone under the age of 18 years old. 37-03-04-01.1
 - D. For commercial driving privileges (Class A, B, or C). CFR 49 Part 394.210
 - E. Failure to maintain payment of a judgment (39-16.1-06).
 - F. When the applicant has had 2 or more criminal traffic offenses, resulting from separate incidents, including the current offense and they have **not** been violation free for 1-year. Administrative Rule 37-03-04-01.1 39-06.1-11
 - G. **Exceptions:**
 - 1. If an offender has been charged with or convicted of a second or subsequent violation of section 39-08-01 or equivalent ordinance, and **NOT** subject to an unrelated suspension or revocation, a TRL shall be issued upon the restriction the offender participate in the 24-7 Sobriety Program (39-20).
 - 2. A driver has had no criminal traffic offenses for one (1) year, or the applicant is participating in a drug court program or other court-ordered treatment or sobriety program.
 - 3. A driver has had a fourth or subsequent alcohol offense within 7 years, treatment is required to have been completed under NDCC 39-06.1-10(3.1b).
- II. General Requirements for Applying for a Temporary Restricted License.
- A. Applicant must apply on Drivers License Division form SFN 2254.

- B. Applicant must have met all necessary requirements.
 - 1. Reinstatement fee must be paid. NDCC 39-06-49
 - 2. Hard suspension period served according to statute, NDCC 39-06.1-11. (7-days for non-alcohol related suspensions and 30-days for alcohol related suspensions or 15-days if participating in the twenty-four seven sobriety program under chapter 54-12).
 - 3. SR-22 on file with the director when required. NDCC 37-03-04-01 NDCC 39-06-17(2)
 - 4. Alcohol evaluation and enrollment in recommended treatment when required. NDCC 39-06.1-10.
 - 5. Surrender of out of state license. NDCC 39-09-01
 - 6. Clearance letter from out-of-state when required. NDCC 39-06-03(2)
 - 7. Written and road tests when required.

III. Applicant Will Be Required To Show Need Based Upon:

- A. Work, medical, life maintenance, and/or alcohol treatment needs.
- B. The necessity to prevent the substantial deprivation of the educational, medical, or nutritional needs of the offender or an immediate family member of the offender.

IV. Contents of the Temporary Restricted License

- A. Name, address, driver license number, class of license, sex, weight, height, hair color, eye color, date of birth and restrictions.
- B. Date the temporary restricted license is issued and valid to.
- C. Name and address of employment.
- D. Vehicles applicant is allowed to drive.
- E. Signature of the driver.
- F. The temporary restricted license is limited to supporting employment and life maintenance needs. Driving outside of these needs is unlawful.

V. Criminal Traffic Offenses Include:

- A. Implied Consent
- B. DUI/APC
- C. Reckless Driving
- D. Aggravated Reckless Driving
- E. Leaving the Scene of an Accident
- F. Violating Restrictions
- G. Knowingly Operating an Unsafe Vehicle
- H. Fleeing a Peace Officer
- I. Driving under Suspension/Revocation/Disqualification
- J. If the driver, due to a traffic conviction, has caused the serious bodily injury or death of another person.
- K. A suspension for "Failure to Appear/Post Bond," or "Failure to Pay Fine/Serve Sentence" or "Failure to File Proof of Insurance."

VI. Medical Related Suspension

A. Eligibility and requirements

1. Current physical examination report showing medical condition must be on file.
2. Valid expiration date or current application and fee pending.
3. Knowledge test successfully completed when necessary.
4. Medical information received must show lapse of consciousness (seizure) free for three months. (Administrative Rule 37-03-01-05)
5. Current temporary restricted application showing need.

B. Limitations

1. Allow driving for primary employment.
2. Allow driving for work schedule such as days and hours.
3. Allow driving for school and/or employment as it may apply.
4. Non-commercial class only.
5. Allow driving while obtaining an evaluation and training at medical rehab hospital and/or commercial driving school.
6. Allow driving on test date only when two thirty-day restricted licenses have already been issued

VII. Visual Related Suspension

A. Eligibility and requirements

1. Current vision certificate must be on file.
2. Valid expiration date or current application and fee in pending.
3. Knowledge test successfully completed when necessary.
4. Visual acuity and/or field of vision must be acceptable as given in vision standards. (Administrative rule 37-08-01-01).
5. Road test required demonstrating ability to safely operate a motor vehicle and determine whether any restrictions are necessary.

B. Limitations

1. Allow to drive while accompanied by another licensed driver.
2. In some cases, allow to drive while obtaining an evaluation and training at a commercial driving school.
3. Allow driving on test date only when two thirty-day restricted licenses have already been issued
4. Allow driving during daylight hours only.
5. Non-commercial class license only.

VIII. Failed To Pass or Take Test Suspension

A. Eligibility and Requirements

1. Medical, vision and knowledge test successfully completed when necessary.

2. Road test required demonstrating ability to safely operate a motor vehicle and determine whether qualified for restricted driving.
- B. Limitations
1. Valid to operate a motor vehicle while accompanied by another licensed driver.
 2. Allow driving while obtaining an evaluation and training at a Commercial Driving School.
 3. Allow driving while obtaining an evaluation at medical rehabilitation.
 4. Allow driving on test date only when two thirty-day restricted licenses have already been issued.
 5. Non-commercial class license only.

Glenn E. Jackson, Director

Attachment 3. Temporary Restricted License Request

TEMPORARY RESTRICTED LICENSE REQUEST

North Dakota Department of Transportation, Drivers License Division
SFN 2254 (Rev. 04-2013)

GENERAL INFORMATION ABOUT TEMPORARY RESTRICTED LICENSES

- Minimum age requirement to obtain a Temporary Restricted License is 18 years of age.
- A Temporary Restricted License is for Class D or M only.
- The reinstatement fee must be paid.

WHEN REQUIRED

- Proof of financial responsibility.
- Alcohol evaluation and enrollment in or completion of recommended treatment.
- Proof of participation in drug court or the 24/7 Sobriety Program when required.

Investigations are conducted by Drivers License Division to determine the validity of information submitted.

MAIL COMPLETED FORM TO: DRIVERS LICENSE DIVISION
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
608 E BOULEVARD AVENUE
BISMARCK ND 58505-0750

INSTRUCTIONS ON COMPLETING THE APPLICATION FORM

All applicants **must** complete parts I & VII. Part II must be completed by your employer. Part III must be completed if you are self-employed. Part IV must be completed if you are requesting driving time to/from school. Part V must be completed if you are requesting driving time to attend counseling/treatment sessions. Part VI must be completed when participating in the 24/7 Sobriety Program.

Drivers
License
Number

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I. APPLICANT'S INFORMATION

Full Name			Date of Birth		
Address		City	State	Zip Code	Phone Number
Explain the reason you need a temporary restricted license (employment, 24/7 Sobriety Program)					

II. EMPLOYER'S INFORMATION

Employer		Name of Business			
Address		City	State	Zip Code	
Name of Supervisor			Phone Number		
Signature of Employer			Date		

III. SELF-EMPLOYED INFORMATION

Name of Business	Type of Business		
Address	City	State	Zip Code

IV. SCHOOL INFORMATION

Name of School		Phone Number	
Address	City	State	Zip Code
School Administrator's Signature			Date

PLEASE ATTACH A COPY OF APPLICANT'S CLASS SCHEDULE

V. COUNSELING/TREATMENT INFORMATION

Name of Center		Phone Number	
Address	City	State	Zip Code
Date and Time for Classes/Counseling			

VI. PARTICIPATION IN THE 24/7 SOBRIETY PROGRAM

I confirm that I am participating in the 24/7 Sobriety Program. I understand that by participating in the 24/7 Sobriety Program, I must provide Drivers License Division proof of participation by means of a Bond Order from the court or other proof of participation acceptable to the director.	
Signature (needed only if participating in the sobriety program)	Date

VII. APPLICANT'S CERTIFICATION

I have read and understand that a temporary restricted license is limited (restricted) to driving for employment and supporting life maintenance needs. Life maintenance needs is defined as the necessity to prevent the substantial deprivation of the educational, medical, or nutritional needs of myself or an immediate family member. Driving outside these restrictions is unlawful. Under the penalty of perjury, I certify that the information contained in this application is true and correct. I understand failure to properly complete this application in its entirety will void my request. I further certify that I have motor vehicle liability coverage.	
Applicant's Signature	Date

Attachment 4, Temporary Restricted License / Twenty-Four Seven Sobriety Program

TEMPORARY RESTRICTED LICENSE / TWENTY-FOUR SEVEN SOBRIETY PROGRAM

North Dakota Department of Transportation, Drivers License Division
SFN 60363 (05-2013)

This form must be completed by law enforcement personnel, assigned law enforcement support staff, or the court confirming the individual named below is a participant of the Twenty-Four Seven Sobriety Program for purposes of applying for a Temporary Restricted License or that the participant is in non-compliance of the Twenty-Four Seven Sobriety Program and no longer eligible for a Temporary Restricted License.

Driver's Name (Last, First, Middle Initial)		Date of Birth	
Driver License Number/Driver Record Number		Telephone Number	
Resident Address	City	State	Zip Code
Mailing Address if Different			

Statement Confirming Participation of the Twenty-Four Seven Sobriety Program

I confirm the above named individual's participation in the Twenty-Four Seven Sobriety Program for purposes of applying for a Temporary Restricted License under NDCC 39-06.1-11(5). Non-compliance with the requirements of the Twenty-Four Seven Sobriety Program will require notification be sent to Drivers License Division.

Statement Confirming Violation of the Twenty-Four Seven Sobriety Program

I confirm the above named individual's participation in the Twenty-Four Seven Sobriety Program is no longer in compliance with the requirements for a Temporary Restricted License under NDCC 39-06.1-11(5) or NDCC 54-12.

Authorized Signature	Date
Name of Law Enforcement Agency/Court	Telephone Number

**MAIL OR FAX COMPLETED FORM TO: DRIVERS LICENSE DIVISION
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
608 E. BOULEVARD AVENUE
BISMARCK, ND 58505-0750
FAX: (701)328-2435**