

Introduced by

1 A BILL for an Act to amend and reenact section 39-20-04.1 of the North Dakota Century Code,
2 relating to the suspension of an individual's driving operator's license.

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

4 **SECTION 1. AMENDMENT.** Section 39-20-04.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **39-20-04.1. Administrative sanction for driving or being in physical control of a**
7 **vehicle while having certain alcohol concentration.**

8 1. After the receipt of a person's operator's license, if taken under section 39-20-03.1
9 or 39-20-03.2, and the certified report of a law enforcement officer and if no written
10 request for hearing has been received from the arrested person under section
11 39-20-05, or if that hearing is requested and the findings, conclusion, and decision
12 from the hearing confirm that the law enforcement officer had reasonable grounds
13 to arrest the person and test results show that the arrested person was driving or in
14 physical control of a vehicle while having an alcohol concentration of at least eight
15 one-hundredths of one percent by weight or, with respect to a person under
16 twenty-one years of age, an alcohol concentration of at least two one-hundredths
17 of one percent by weight at the time of the performance of a test within two hours
18 after driving or being in physical control of a motor vehicle, the director shall
19 suspend the person's operator's license as follows:

20 a. For ninety-one days if the person's driving record shows that, within the five
21 years preceding the date of the arrest, the person has not previously violated
22 section 39-08-01 or equivalent ordinance or the person's operator's license
23 has not previously been suspended or revoked under this chapter and the
24 violation was for an alcohol concentration of at least eight one-hundredths of

one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, and under eighteen one-hundredths of one percent by weight.

b. For one hundred eighty days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within five years preceding the last violation and the last violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.

c. For three hundred sixty-five days if the person's driving record shows that, within the five years preceding the date of the arrest, the person has once previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has once previously been suspended or revoked under this chapter with the last violation or suspension for an alcohol concentration under eighteen one-hundredths of one percent by weight.

d. For two years if the person's driving record shows that within the five years preceding the date of the arrest, the person's operator's license has once been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, with the last violation or suspension for an alcohol concentration of at least eighteen one-hundredths of one percent by weight or if the person's driving record shows that within the five years preceding the date of arrest, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination thereof, and the suspensions, revocations, or denials resulted from at least two separate arrests with the last violation or suspension for an alcohol concentration of under eighteen one-hundredths of one percent by weight.

e. For three years if the operator's record shows that within five years preceding the date of the arrest, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination thereof, and the suspensions, revocations, or denials resulted

1 from at least two separate arrests and the last violation or suspension was for
2 an alcohol concentration of at least eighteen one-hundredths of one percent
3 by weight.

4 2. Notwithstanding any other provisions of law, if a court orders a person to
5 participate in a sobriety program under which the person is required to abstain
6 totally from the use of alcohol and to submit to daily testing or monitoring for the
7 presence of alcohol in the person's body, the court may order the continuance of
8 the temporary operator's permit until the person has violated the conditions of the
9 court order, has been convicted of the offense, or has completed participation in
10 the sobriety program.

11 3. In the suspension of the person's operator's license the director shall give credit for
12 the time the person was without an operator's license after the day of the offense,
13 except that the director may not give credit for the time the person retained driving
14 privileges through a temporary operator's permit issued under section 39-20-03.1
15 or 39-20-03.2.