

MOTOR VEHICLES

CHAPTER 281

HOUSE BILL NO. 1100

(Political Subdivisions Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact subsection 2 of section 39-01-01 and subsection 2 of section 39-10-03 of the North Dakota Century Code, relating to definitions of and lights used by authorized emergency vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁴ **SECTION 1. AMENDMENT.** Subsection 2 of section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Authorized emergency vehicles":
 - a. "Class A" authorized emergency vehicles means:
 - (1) Vehicles of a governmentally owned fire department.
 - (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title or by a salaried employee of a municipal police department within the municipality or by a sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of class A authorized emergency vehicles.
 - (3) Vehicles clearly identifiable as property of the department of corrections and rehabilitation when operated or under the control of the director of the department of corrections and rehabilitation.
 - (4) Ambulances.
 - (5) Vehicles operated by or under the control of the director, district deputy director, or a district deputy game warden of the game and fish department.
 - (6) Vehicles owned or leased by the United States and used for law enforcement purposes.
 - (7) Vehicles designated for the use of the adjutant general or assistant adjutant general in cases of emergency.

¹¹⁴ Section 39-01-01 was also amended by section 1 of Senate Bill No. 2039, chapter 291, section 2 of Senate Bill No. 2039, chapter 291, section 1 of Senate Bill No. 2317, chapter 307, and section 2 of Senate Bill No. 2317, chapter 307.

- (8) Vehicles operated by or under the control of the director of the parks and recreation department.
 - (9) Vehicles operated by or under the control of a licensed railroad police officer and used for law enforcement purposes.
 - (10) Vehicles operated by or under the control of the state forester.
 - (11) Vehicles operated by or under the control of the bureau of criminal investigation and used for law enforcement purposes.
- b. "Class B" authorized emergency vehicles means wreckers and such other emergency vehicles as are authorized by the local authorities.
 - c. "Class C" authorized emergency vehicles means:
 - (1) Vehicles ~~authorized~~used by the state division of homeland security or local division of emergency management organizations.
 - (2) Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.
 - (3) Vehicles, other than ambulances, used by emergency medical services personnel.

SECTION 2. AMENDMENT. Subsection 2 of section 39-10-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The exceptions herein granted to a class A authorized emergency vehicle apply only:
 - a. When the authorized emergency vehicle is in pursuit of or apprehension of a violator or a suspected violator requiring the use of these exemptions.
 - b. When the class A authorized emergency vehicle is being operated in response to a reported emergency involving a possible personal injury, death, or damage to property, and when giving adequate warning by use of a flashing red or combination red and white lights that are visible under normal atmospheric conditions for at least five hundred feet [152.4 meters] and if appropriate, giving audible signal by siren or airhorn. A firetruck, ambulance, or law enforcement vehicle that is otherwise a class A authorized emergency vehicle may display a flashing blue light in addition to and under the same conditions as the other colors allowed in this subdivision.
 - c. In any instance when the head of a law enforcement agency deems advisable within the area of that person's jurisdiction for the protection of person and property and when giving audible signal by siren or when giving adequate warning by use of a flashing red or combination red and white lights which are visible under normal atmospheric conditions for at least five hundred feet [152.4 meters]. A firetruck, ambulance, or law enforcement vehicle that is otherwise a class A authorized emergency vehicle may display a flashing blue light in addition to and under the same conditions as the other colors allowed in this subdivision.

Approved March 26, 2013

Filed March 27, 2013

CHAPTER 282

SENATE BILL NO. 2117

(Government and Veterans Affairs Committee)
(At the request of the Insurance Commissioner)

AN ACT to amend and reenact section 39-01-02 of the North Dakota Century Code, relating to marking on official state vehicles; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-01-02 of the North Dakota Century Code is amended and reenacted as follows:

39-01-02. Motor vehicles owned or leased by the state to display name on side of vehicles - Exceptions - Penalty.

All motor vehicles owned and operated by the state, except vehicles under the control of the central vehicle management system and the official vehicle for use by the governor, must have displayed on each front door the words NORTH DAKOTA. The words must be in letters four inches [10.16 centimeters] in height. Two and one-half inches [6.35 centimeters] directly below those words there must be printed in letters one and one-half inches [3.81 centimeters] in height the name of the state agency owning or leasing the motor vehicle. The width of the display required by this section must be proportionate to the required height. The color of the lettering must be in clear and sharp contrast to the background. The state auditor shall include in the auditor's report to the governor and the legislative assembly any instance of noncompliance with this section. The above requirements and the requirements for no smoking signs do not apply to vehicles operated by the attorney general's office, the highway patrol, or vehicles used principally in juvenile, parole, and placement services a state entity that engages in investigatory activities. The central vehicle management system vehicles must display a window decal designed by the director. The state highway patrol and all peace officers of this state shall enforce this section.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 21, 2013

Filed March 21, 2013

CHAPTER 283

SENATE BILL NO. 2120

(Senators Larsen, Luick, Hogue)
(Representative Ruby)

AN ACT to amend and reenact section 39-01-15 of the North Dakota Century Code, relating to parking privileges for a disabled veteran.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁵ **SECTION 1. AMENDMENT.** Section 39-01-15 of the North Dakota Century Code is amended and reenacted as follows:

39-01-15. Parking privileges for mobility impaired - Certificate - Revocation - Continuing appropriation - Penalty.

1. Any mobility-impaired ~~person~~individual who displays prominently upon an automobile parked by that ~~person~~individual or under that ~~person's~~individual's direction and for that ~~person's~~individual's use, the distinguishing certificate specified in subsection 4 or, license plates issued under section 39-04-10.2, ~~or a disabled veteran plate issued under subdivision j of subsection 2 of section 39-04-18~~ is entitled to courtesy in the parking of the automobile. ~~Provided, however, that~~However, any municipality may ~~prohibit,~~ prohibit parking on any ~~street or~~ highway for the purpose of creating a fire lane; or to provide for the accommodation of heavy traffic during morning and afternoon rush hours; ~~and the.~~ The privileges extended to ~~such a~~ mobility-impaired personsindividual do not apply on ~~streets or highways where and during such times as a~~ highway if parking is prohibited.
2. A mobility-impaired ~~person~~individual as used in this section includes ~~any person~~an individual who uses portable oxygen; requires personal assistance or the use of crutches, a wheelchair, or a walker to walk two hundred feet [60.96 meters] without rest; is restricted by cardiac, pulmonary, or vascular disease from walking two hundred feet [60.96 meters] without rest; has a forced expiratory volume of less than one liter for one second or an arterial oxygen tension of less than sixty millimeters of mercury on room air while at rest and is classified III or IV by standards for cardiac disease set by the American heart association; ~~or~~ has an orthopedic, neurologic, or other medical condition that makes it impossible for the person to walk two hundred feet [60.96 meters] without assistance or rest; ~~or is a disabled veteran issued a plate under subdivision j of subsection 2 of section 39-04-18.~~
3. Repealed by S.L. 1989, ch. 319, § 6.
4. The director may issue, for a fee of three dollars per year or part of a year, a special identifying certificate to any mobility-impaired applicant upon submission by the applicant of a completed application and a written statement issued by a qualified physician or an advanced practice registered

¹¹⁵ Section 39-01-15 was also amended by section 1 of Senate Bill No. 2271, chapter 373.

nurse to the director that the applicant is a mobility-impaired person within the criteria of subsection 2. The director shall waive the requirement for a written statement from a qualified physician or an advanced practice registered nurse if the applicant has previously submitted an application containing a certification from a qualified physician or an advanced practice registered nurse that the applicant's impairment is not reversible. The application must include the information required by the director. The physician's or advanced practice registered nurse's statement must describe how the impairment limits the applicant's mobility and daily life functions of the applicant. The certificate is valid for a period, not to exceed three years, as determined by the director. A physician or an advanced practice registered nurse who provides a false statement that a personan individual is mobility impaired for the purpose of that personan individual obtaining a certificate under this subsection is guilty of an infraction for which a minimum fine of one hundred dollars must be imposed. A certificate issued under this subsection must be nine and one-half inches [24.13 centimeters] in height and three inches [7.62 centimeters] in width and must bear, in white on blue, the internationally accepted symbol of access for the mobility impaired. The certificate must bear the expiration date and registration number assigned by the director. The director shall adopt rules governing the issuance of the certificate. A temporary certificate, valid for an initial period not to exceed three months, may be issued by the director for a fee of three dollars upon application supported by a physician's or an advanced practice registered nurse's statement. The director may issue a maximum of one additional temporary certificate for a fee of three dollars. The temporary certificate may be extended an additional period, not to exceed three months, upon application supported by a physician's or an advanced practice registered nurse's statement that the extension is warranted. Temporary certificates must be the same size as other certificates issued under this section and must be white on red. The director may issue a maximum of one additional certificate, if the applicant does not have licensenumber plates issued under section 39-04-10.2 or under subdivision j of subsection 2 of section 39-04-18, for a fee of six dollars per certificate, to a mobility-impaired personan individual to whom a certificate has been issued under this subsection. The additional certificates may only be used by or on behalf of the mobility-impaired personan individual.

5. Except as provided in this subsection, two dollars of each fee for issuance of a certificate and one dollar of each fee for issuance of an additional certificate under this section must be deposited in the state highway department fund for purposes of defraying the cost of issuing the certificate. The rest of the fee, and the five dollar fee received for the issuance of an additional certificate under subsection 4, must be deposited in the state treasury and credited to the employment of people with disabilities fund. The fees deposited in the fund are hereby appropriated on a continuing basis to the committee on employment of people with disabilities of the department of human services for development of job opportunities for disabled individuals in this state. If a certificate is lost, mutilated, or destroyed, the personan individual to whom the certificate was issued is entitled to a replacement. The personan individual shall furnish proof satisfactory to the director that the certificate has been lost, mutilated, or destroyed, and shall pay a replacement fee of three dollars.
6. A certificate issued under this section must be hung from the rearview mirror of the motor vehicle whenever the vehicle is occupying a space reserved for the mobility impaired and is being used by a mobility-impaired personan individual or another personan individual for the purposes of transporting

the mobility-impaired ~~person~~individual. No part of the certificate may be obscured. A fee of five dollars may be imposed for a violation of this subsection.

7. An applicant may appeal a decision denying issuance of the certificate to the director. Written notice of the appeal must be received within ten business days following receipt by the applicant of notice of denial. The applicant has sixty days to provide additional supportive material to the director for purposes of deciding the appeal. The director shall affirm or reverse the decision to deny issuance of the certificate within thirty days after receipt of the supportive material. Written notice of the decision must be given to the applicant.
8. If a law enforcement officer finds that the certificate is being improperly used, the officer may report to the director any such violation and the director may, in the director's discretion, remove the privilege. ~~Any person~~An individual who is not mobility impaired and who exercises the privileges granted a mobility-impaired ~~person~~individual under subsection 1 is guilty of an infraction for which a fine of one hundred dollars must be imposed.
9. ~~Whenever any~~If a public or private entity designates parking spaces for use by a motor vehicle~~vehicle~~ operated by a mobility-impaired person~~s~~individual, those reserved spaces must comply with the requirements of the Americans with Disabilities Accessibility Guidelines for Buildings and Facilities as contained in the appendix to title 28, Code of Federal Regulations, part 36 [28 CFR 36] and must be indicated by blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space. In addition to blue paint, each reserved space must be indicated by an official sign approved by the director bearing the internationally accepted symbol of access for the mobility impaired. The sign must indicate that unauthorized use of the space is a nonmoving violation for which a fee of one hundred dollars must be imposed. For particular events, a public or a private entity may reserve additional parking spaces for use by motor vehicles operated by a mobility-impaired person~~s~~individual. In that case, each temporarily reserved space must be indicated by a sign or other suitable means. A sign indicating that a space is reserved for the mobility impaired and blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space, unless the space is a temporary mobility-impaired parking space, is sufficient basis for the enforcement of this section. A law enforcement officer shall enforce this section in any parking lot or parking facility, whether publicly or privately owned.
10. ~~A person~~An individual may not stop, stand, or park any vehicle in any designated parking space that is reserved for the mobility impaired unless the vehicle displays a mobility-impaired identification certificate issued by the director to a mobility-impaired ~~person~~individual. A mobility-impaired ~~person~~individual may not permit the use of a certificate issued under this section by ~~a person~~an individual who is not mobility impaired when that use is not in connection with the transport of the mobility-impaired ~~person~~individual. The registered owner of a vehicle may not allow that vehicle to be used in a manner that violates this subsection. Proof of intent is not required to prove a registered owner's violation of this subsection. The registered owner, however, may be excused from a violation if the owner provides the citing authority with the name and address of the ~~person~~individual operating the vehicle at the time of the violation. A vehicle may temporarily use a space reserved for a mobility-impaired person~~s~~individual without a mobility-impaired certificate for

the purpose of loading and unloading a mobility-impaired ~~persons~~individual. A violation of this subsection is a nonmoving violation for which a fee of one hundred dollars must be imposed. Notwithstanding section 29-27-02.1, fifty percent of the fee imposed and collected under this subsection is appropriated on a continuing basis to the local committee on persons with disabilities, if one exists in the city in which the violation occurred, for the development of job opportunities for disabled individuals in the community.

11. Any motor vehicle licensed in another state which displays a special authorized vehicle designation issued by the licensing authority of that state for vehicles used in the transportation of a mobility-impaired ~~persons~~individual must be accorded the same privilege provided in this section for similar vehicles licensed in this state if the laws of the other state provide the same privileges to North Dakota motor vehicles displaying the special identifying certificate authorized in this section.
12. An entity that violates the requirements of subsection 9 is guilty of an infraction if the entity does not comply with subsection 9 within sixty days after receiving official notification of the violation.
13. The department shall issue a mobility-impaired parking permit for a vehicle owned and operated by care providers licensed by the state, veterans-related organizations, and other entities that regularly transport mobility-impaired individuals for use by those providers and entities to park in designated parking spaces while transporting mobility-impaired individuals.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 284

HOUSE BILL NO. 1205

(Representatives Paur, Gruchalla, D. Johnson, Meier, Owens)
(Senator Lyson)

AN ACT to amend and reenact sections 39-04-10.3 and 39-04-10.14 and subdivisions j and o of subsection 2 of section 39-04-18 of the North Dakota Century Code, relating to number plates for certain veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-10.3 of the North Dakota Century Code is amended and reenacted as follows:

39-04-10.3. Personalized plates.

~~The~~At the request of a registrant, the department may, ~~in its discretion,~~ provide special license plates marked with not more than seven numerals, letters, or ampersands, or combinations of numerals, letters, and ampersands, ~~at the request of the registrant,~~ upon application therefor for a special license plate and payment of an additional fee of twenty-five dollars per registration period, unless the plate is a gold star license plate or a prisoner of war license plate, then there is no additional charge. The department shall make the special license plates authorized by this section available for motor vehicles registered under section 39-04-10.6, trailers, travel trailers, and motorcycles. The fee for the special license plates issued under this section for vehicles registered under section 39-04-10.6 is a one-time fee of one hundred dollars. The special license plates for motorcycles may contain not more than six numerals, letters, or ampersands, or a combination of not more than six numerals, letters, and ampersands. In the event of sale or transfer of the vehicle, the owner must remove the special license plates in accordance with section 39-04-36. Upon payment of the applicable transfer fee, the special license plates may be transferred to a replacement motor vehicle.

SECTION 2. AMENDMENT. Section 39-04-10.14 of the North Dakota Century Code is amended and reenacted as follows:

39-04-10.14. North Dakota gold star number plates ~~–Definition–Description–Fee.~~

1. The director may issue distinctive number plates to a surviving spouse, parent, including stepmother, stepfather, parent through adoption, and foster parent who stands or stood in loco parentis, grandparents, child, including stepchild and child through adoption, and sibling, including half-brother and half-sister, of a member of the armed forces of the United States who died while serving on active duty during a time of military conflict. The director shall issue a number plate under this section upon receiving:
 - a. Payment payment of all other fees required under this chapter for registration of a motor vehicle;_

- ~~b. Payment of an initial fee of fifteen dollars, of which ten dollars is to be deposited in the highway tax distribution fund and five dollars is to be deposited in the veterans' cemetery maintenance fund; and~~
 - ~~c. Verification of subsequent payments of an annual surcharge of ten dollars paid to the adjutant general.~~
2. ~~The department shall collect the fees and the ten dollar surcharge under this section. The department shall report to the legislative assembly on the funds collected under this section during each legislative session. The department shall pay the funds collected for the veterans' cemetery and adjutant general to the adjutant general monthly. Within ten days of receipt of the funds, the adjutant general shall deposit five dollars of each initial fee in the veterans' cemetery maintenance fund and shall apportion the ten dollar surcharge and deposit five dollars in the veterans' cemetery trust fund and five dollars in the veterans' cemetery maintenance fund in the state treasury. The state treasurer may invest the fund in the same manner as the state investment board is authorized to make investments. At the request of the adjutant general, the interest in the veterans' cemetery trust fund must be deposited in the veterans' cemetery maintenance fund for the purpose of funding salaries and maintenance of the veterans' cemetery.~~
- ~~3. Plates issued under this section must bear a gold star emblem logo on the left side of the plate and the letters "GS" before the number. The director shall cooperate with the director of the department of veterans' affairs to design the gold star emblem logo. The director may issue one set of plates per eligible owner of a passenger motor vehicle or a truck the registered gross weight of which does not exceed twenty thousand pounds [9071.85 kilograms].~~
- ~~4-3. On request of the director, the department of veterans' affairs shall certify those surviving family members of deceased members of the United States armed forces listed above as eligible to receive the plates.~~
- ~~5-4. Once declared eligible for a gold star plate, the department may not remove the eligibility of a surviving family member.~~
- ~~6-5. Once a plate number is issued to an eligible family member, the department may not assign the plate to another eligible person.~~

SECTION 3. AMENDMENT. Subdivisions j and o of subsection 2 of section 39-04-18 of the North Dakota Century Code are amended and reenacted as follows:

- j. Motor vehicles not exceeding twenty-six thousand pounds [11793.40 kilograms] registered gross weight owned and operated by a disabled veteran under the provisions of Public Law 79-663 [38 U.S.C. 3901], a disabled veteran who has a one hundred percent service-connected disability as determined by the department of veterans' affairs, or a disabled veteran who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs is entitled to display a distinctive license plate issued by the department upon the payment of a fee of five dollars. This exemption applies to no more than two such motor vehicles owned by a disabled veteran at any one time.

- o. Passenger motor vehicles, house cars, or pickup trucks not exceeding twenty thousand pounds [9071.84 kilograms] registered gross weight owned and operated by a resident who, while serving in the United States armed forces, was a prisoner of war and has received an honorable discharge from the United States armed forces; ~~provided, however, that the vehicle is entitled to display a distinctive license plate issued by the department upon the payment of five dollars.~~ This exemption also applies to any passenger motor vehicle, house car, or pickup truck not exceeding twenty thousand pounds [9071.84 kilograms] registered gross weight subsequently purchased or acquired by such a former prisoner of war; ~~provided, that the.~~ This exemption provided by this subdivision is allowed only with respect applies to one no more than two motor vehicle vehicles owned by such a former prisoner of war at any one time. A surviving spouse of a former prisoner of war who has not remarried retains the exemption of the deceased veteran who qualified under this subdivision for one vehicle.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 285

HOUSE BILL NO. 1125

(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to amend and reenact section 39-04-17 of the North Dakota Century Code, relating to notarized certificates for vehicle registration; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-17 of the North Dakota Century Code is amended and reenacted as follows:

39-04-17. Certificate of notary showing compliance with registration is prima facie evidence - Penalty.

The possession of a certificate made out by a notary public or an authorized agent of a licensed vehicle dealer who took the acknowledgment of the application when the vehicle was first registered or required to be registered under the laws of this state, if such certificate shows the date of application, the make, registered weight, and year model of the motor vehicle, the manufacturer's number of the motor vehicle which such application describes, and further shows that such notary public, or authorized agent of a vehicle dealer, personally mailed the application with the remittance fee, is prima facie evidence of compliance with motor vehicle law with reference to the vehicle therein described, for a period of ~~forty-five~~seventy-five days from the date of such application. Any violation of this section is an infraction punishable by a fine of not less than fifty dollars.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 286

HOUSE BILL NO. 1122

(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to amend and reenact section 39-04.2-04 of the North Dakota Century Code, relating to public transportation funding.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁶ **SECTION 1. AMENDMENT.** Section 39-04.2-04 of the North Dakota Century Code is amended and reenacted as follows:

39-04.2-04. Distribution of funds.

1. Moneys appropriated by the legislative assembly to the public transportation fund must be disbursed under guidelines issued by the director. The funds must be used by transportation providers to establish and maintain public transportation, especially for the elderly and handicapped, and may be used to contract to provide public transportation, as matching funds to procure money from other sources for public transportation and for other expenditures authorized by the director.
2. Each county shall receive a base amount of four-tenths of one percent of the appropriation for the program plus one dollar and fifty cents per capita of population in the county, based upon the latest regular or special official federal census. Each year the director shall increase or decrease the one dollar and fifty cents per capita amount in order to distribute all funds appropriated for the biennium. If there are multiple transportation providers in one county, then the base amount must be divided equally among the providers and the additional per capita amount must be based upon the percentage of elderly and handicapped ridership provided by each transportation provider within the county. Funds not expended by a county during a contract period, or previous contract periods, may be redistributed under guidelines established by the director. In addition, unexpended funds may also be used by the director for transit coordination purposes.

Approved March 26, 2013
Filed March 27, 2013

¹¹⁶ Section 39-04.2-04 was also amended by section 1 of House Bill No. 1142, chapter 287.

CHAPTER 287

HOUSE BILL NO. 1142

(Representatives Delzer, Laning, Vigesaa, Weisz)
(Senator Oehlke)

AN ACT to amend and reenact section 39-04.2-04 of the North Dakota Century Code, relating to distributions from the public transportation fund; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁷ **SECTION 1. AMENDMENT.** Section 39-04.2-04 of the North Dakota Century Code is amended and reenacted as follows:

39-04.2-04. Distribution of funds - Continuing appropriation.

1. Moneys ~~appropriated by the legislative assembly to~~in the public transportation fund must be disbursed under guidelines issued by the director. The funds must be used by transportation providers to establish and maintain public transportation, especially for the elderly and handicapped, and may be used to contract to provide public transportation, as matching funds to procure money from other sources for public transportation and for other expenditures authorized by the director. Moneys in the public transportation fund are appropriated to the department of transportation on a continuing basis for distributions authorized under this section.
2. Each county shall receive a base amount of four-tenths of one percent of the appropriation for the program plus one dollar and fifty cents per capita of population in the county, based upon the latest regular or special official federal census. Each year the director shall increase or decrease the one dollar and fifty cents per capita amount in order to distribute all funds appropriated for the biennium. If there are multiple transportation providers in one county, then the base amount must be divided equally among the providers and the additional per capita amount must be based upon the percentage of elderly and handicapped ridership provided by each transportation provider within the county.

Approved April 2, 2013
Filed April 2, 2013

¹¹⁷ Section 39-04.2-04 was also amended by section 1 of House Bill No. 1122, chapter 286.

CHAPTER 288

HOUSE BILL NO. 1047

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact sections 39-05-02.2, 39-05-03, and 39-19-06 of the North Dakota Century Code, relating to the international registration plan and the unified carrier registration system; and to repeal section 39-19-06.1 of the North Dakota Century Code, relating to the single state insurance registration system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-05-02.2 of the North Dakota Century Code is amended and reenacted as follows:

39-05-02.2. Exclusions from the certificate of title requirement.

~~No~~A certificate of title need not be obtained for:

1. A vehicle owned by the United States unless it is registered in this state.
2. A vehicle owned by a manufacturer or dealer and held for sale, even ~~though~~if incidentally moved on the highway or used for purposes of testing or demonstration, or a vehicle used by a manufacturer solely for testing.
3. A vehicle owned by a nonresident of this state and not required by law to be registered in this state.
4. A vehicle regularly engaged in interstate transportation of persons or property ~~that~~which is registered in accordance with the international registration plan and for which a currently effective certificate of title has been issued in another state that has a reciprocal excise tax agreement with this state.
5. A vehicle moved solely by human or animal power.
6. Implements of husbandry.
7. Special mobile equipment.
8. A self-propelled ~~invalid~~ wheelchair or ~~invalid~~ tricycle for a mobility-impaired individual.
9. Any vehicle which is driven or moved upon a highway only for the purpose of crossing the highway from one property to another. The vehicle shall cross the highway at an angle of approximately ninety degrees to the direction of the highway.
10. Other vehicles not required to be registered in this state or not required to display distinctive plates.

11. A manufactured home with respect to which the requirements of subsections 1 through 3 of section 39-05-35, as applicable, have been satisfied.

SECTION 2. AMENDMENT. Section 39-05-03 of the North Dakota Century Code is amended and reenacted as follows:

39-05-03. Department not to license vehicle until application is made for a certificate of title.

The department may not register or renew the registration for license of any vehicle unless ~~and until~~ an application is made for an official certificate of title for the vehicle, ~~or unless~~ satisfactory evidence is presented that a certificate of title for the vehicle has been issued previously to the lienholder or owner by the department, ~~or when the vehicle is regularly engaged in interstate commerce and of persons or property, is~~ registered in accordance with the international registration plan ~~the vehicle is titled, and has a currently effective certificate of title that has been issued in another state that has a reciprocal excise tax agreement with this state.~~

SECTION 3. AMENDMENT. Section 39-19-06 of the North Dakota Century Code is amended and reenacted as follows:

39-19-06. Unified carrier registration system.

The director may adopt all rules necessary to enable this state to participate in the unified carrier registration system ~~for motor carriers authorized by subtitle C of the Safe, Accountable, Flexible, Efficient Transportation Act of 2005 [Pub. L. 109-59; 119 Stat. 1761; 49 U.S.C. 14504a] and by applicable rules and regulations. In determining whether to adopt rules as permitted by this section, the director shall consider the costs and benefits to the state of participating in the unified carrier registration program. Any moneys derived from participation in the unified carrier registration program must be deposited in the highway fund.~~

SECTION 4. REPEAL. Section 39-19-06.1 of the North Dakota Century Code is repealed.

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 289

HOUSE BILL NO. 1126

(Transportation Committee)
(At the request of the Highway Patrol)

AN ACT to amend and reenact section 39-05-20.2 of the North Dakota Century Code, relating to salvage certificates of title.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-05-20.2 of the North Dakota Century Code is amended and reenacted as follows:

39-05-20.2. Issuance of salvage certificate of title.

1. The owner of a vehicle that is damaged in excess of seventy-five percent of the vehicle's retail value as determined by the national automobile dealers association official used car guide shall forward the title for that vehicle to the department within ten days and the department shall issue a salvage certificate of title. Glass damage and hail damage must be excluded in the determination of whether a vehicle has been damaged in excess of seventy-five percent of the vehicle's retail value.
2. If a vehicle for which a salvage certificate of title has been issued is reconstructed, a regular certificate of title may be obtained by completing an application for the certificate. The applicant shall include with the application a certificate of inspection in the form required by the department, the salvage certificate of title, and a five dollar fee. The department shall place on the regular certificate of title and on all subsequent certificates of title issued for the vehicle the words "previously salvaged" and a notation that damage disclosure information is available from the department. The department may not issue a new certificate unless the vehicle identification number of the vehicle has been inspected and found to conform to the description given in the application or unless other proof of the identity of the vehicle has been provided to the satisfaction of the department.
3. The certificate of inspection required under this section must be completed by a business that is registered with the secretary of state, is in good standing, and offers motor vehicle repair to the public. The business completing the certificate of inspection may not be the business that reconstructed the vehicle and must state the vehicle is in compliance with the requirements of chapter 39-21.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 290

SENATE BILL NO. 2042

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact section 39-05-20.3 of the North Dakota Century Code, relating to the refusal to issue a certificate of title for unsafe and unfit vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-05-20.3 of the North Dakota Century Code is amended and reenacted as follows:

39-05-20.3. Grounds for refusing certificate of title.

The department ~~shall~~may not issue a certificate of title or transfer a certificate of title ~~upon any of the following grounds~~if:

1. ~~When the~~The application contains any false or fraudulent statements ~~or when~~, the applicant has failed to furnish required information or reasonable additional information requested by the department, ~~or when~~ the applicant is not entitled to the issuance of a certificate of title under this chapter.
2. ~~When the~~The vehicle is mechanically unfit or unsafe to be operated or moved upon the highways. A vehicle is unfit and unsafe if the vehicle has an out-of-state marked title that includes a certificate for destruction or a notation on the title that the vehicle is scrap, parts-only, junk, unrepairable, nonrebuildable, a dismantler, or any other similar notation.
3. ~~When the~~The department has reason to believe the vehicle is a stolen or embezzled vehicle or the granting of title would constitute a fraud against the rightful owner or other person having valid lien upon the vehicle.
4. ~~When the~~The certificate of title is suspended or revoked for any reason ~~as provided in the motor vehicle laws of this state.~~
5. ~~When the~~The required fee has not been paid.
6. ~~When any~~Any sales tax or motor vehicle excise tax, properly due, has not been paid.
7. ~~For~~There is failure to provide security for payment of basic no-fault benefits and the liabilities covered under motor vehicle liability insurance on a motor vehicle as required by chapter 26.1-41.

Approved March 18, 2013
Filed March 18, 2013

CHAPTER 291

SENATE BILL NO. 2039

(Legislative Management)
(Transportation Committee)

AN ACT to create and enact four new subsections to section 39-01-01, section 39-06-14.1, and a new subsection to section 39-06.2-09 of the North Dakota Century Code, relating to definitions and motorcycle and commercial licenses; to amend and reenact subsection 60 of section 39-01-01, sections 39-06-01, 39-06-01.1, 39-06-01.2, 39-06-02, 39-06-03, 39-06-03.1, 39-06-04, 39-06-05, 39-06-06, 39-06-07, 39-06-07.1, 39-06-07.2, 39-06-08, 39-06-09, 39-06-10, 39-06-11, 39-06-12, 39-06-13, 39-06-13.1, 39-06-14, 39-06-16, 39-06-17, 39-06-18, 39-06-19, 39-06-19.1, 39-06-20, 39-06-21, 39-06-22, 39-06-24, 39-06-25, 39-06-26, 39-06-27, 39-06-28, 39-06-31, 39-06-32, 39-06-32.1, 39-06-33, 39-06-34, 39-06-34.1, 39-06-35, 39-06-36, 39-06-37, 39-06-38, 39-06-40, 39-06-40.1, 39-06-42, 39-06-43, 39-06-44, 39-06-45, 39-06-46, 39-06-47, 39-06-48, 39-06-49, 39-06.1-08, and 39-06.1-09, subsection 3 of section 39-06.1-11, and section 39-16-03 of the North Dakota Century Code, relating to the privilege to operate a motor vehicle in this state; and to repeal sections 39-06-23, 39-06-30, 39-06-50, 39-06-52, and 39-16.1-02 of the North Dakota Century Code, relating to the privilege to operate a motor vehicle in this state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁸ **SECTION 1.** Four new subsections to section 39-01-01 of the North Dakota Century Code are created and enacted as follows:

"Cancellation" means a license is annulled and terminated because of an error or defect or because the licensee is no longer entitled to the operator's license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after the cancellation.

"Conviction" means a final order or judgment or conviction by the North Dakota supreme court, any lower court having jurisdiction, a tribal court, or a court in another state if an appeal is not pending and the time for filing a notice of appeal has elapsed. Subject to the filing of an appeal, the term includes:

- a. An imposed and suspended sentence;
- b. A deferred imposition of sentence under subsection 4 of section 12.1-32-02; or
- c. A forfeiture of bail or collateral deposited to secure a defendant's appearance in court and the forfeiture has not been vacated.

¹¹⁸ Section 39-01-01 was also amended by section 1 of House Bill No. 1100, chapter 281, section 2 of Senate Bill No. 2039, chapter 291, section 1 of Senate Bill No. 2317, chapter 307, and section 2 of Senate Bill No. 2317, chapter 307.

"Revocation" means that the operator's license is terminated and may not be renewed or restored, except on application for a new license presented to and acted upon by the director after the expiration of the period of revocation.

"Suspension" means that the operator's license is temporarily withdrawn but only during the period of the suspension.

119 SECTION 2. AMENDMENT. Subsection 60 of section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

60. "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to after the effective date of said the proof, arising out of the ownership, maintenance, or use of a motor vehicle, in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to said the limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of ~~ten~~twenty-five thousand dollars because of injury to or destruction of property of others in any one accident.

SECTION 3. AMENDMENT. Section 39-06-01 of the North Dakota Century Code is amended and reenacted as follows:

39-06-01. Operators must be licensed - Additional licensing - Penalty.

1. ~~A person~~An individual, unless expressly exempted in this section, may not drive any 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 unless the ~~person~~individual has a valid license as an operator under the provisions of this chapter or a temporary operator's permit issued under chapter 39-20. A ~~person~~An individual may not receive an operator's license unless and until that ~~person~~individual surrenders to the director all operator's licenses and permits issued to the ~~person~~that individual by any jurisdiction. ~~When~~If a license issued by another jurisdiction is surrendered, the director shall notify the issuing jurisdiction of ~~its~~the surrender. A ~~person~~An individual may not have more than one valid operator's license at any one time.
2. ~~Any person~~An individual licensed as an operator hereunder may exercise the privilege ~~thereby granted upon all streets and highways by the license on any highway~~ in this state and may not be required to obtain any other license to exercise ~~such~~the privilege by any county, municipal, or local board, or ~~body~~political subdivision having authority to adopt local police regulations, except that municipalities may license ~~draymen, parcel deliverymen, busdrivers, taxi drivers, porters, expressmen, watermen, and others pursuing~~ like occupations; and ~~may regulate~~ the operation of taxicabs; ~~as provided by under~~ subsection 27 of section 40-05-01.

SECTION 4. AMENDMENT. Section 39-06-01.1 of the North Dakota Century Code is amended and reenacted as follows:

¹¹⁹ Section 39-01-01 was also amended by section 1 of House Bill No. 1100, chapter 281, section 1 of Senate Bill No. 2039, chapter 291, section 1 of Senate Bill No. 2317, chapter 307, and section 2 of Senate Bill No. 2317, chapter 307.

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

1. The director shall cancel the ~~permit or operator's license to operate a motor vehicle~~ 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 ~~or permit to operate a motor vehicle~~ canceled under subsection 1, the director shall deem that individual to have never have had any license ~~or permit to operate a motor vehicle~~ and may not issue any license ~~or permit to drive/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 or permit to that individual until, while using the permit issued under this section,~~ 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 or permit~~.

SECTION 5. AMENDMENT. Section 39-06-01.2 of the North Dakota Century Code is amended and reenacted as follows:

39-06-01.2. Anatomical gifting.

The application for nondriver photo identification cards and ~~driver's/operator's licenses issued to operators~~ must include a statement making an anatomical gift and provide for the voluntary identification of the applicant as a donor under chapter 23-06.6. ~~Voluntary~~ In addition, 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 identification card or license unless a duplicate card 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.

SECTION 6. AMENDMENT. Section 39-06-02 of the North Dakota Century Code is amended and reenacted as follows:

39-06-02. ~~What persons~~Individuals who are exempt from having an operator's license - Resident defined.

1. The following persons are exempt from having an operator's license hereunder:
 1. ~~a.~~ An employee of the United States government while operating a motor vehicle owned by or leased to that government and being operated on official business.
 2. ~~b.~~ A nonresident who is at least sixteen years of age, who has in that ~~person's~~individual's immediate possession a valid operator's license issued to that ~~person~~individual in that ~~person's~~individual's home state or country, ~~may operate a motor vehicle in this state.~~
 3. ~~c.~~ A nonresident who is at least sixteen years of age, whose home state or country does not require the licensing of operators, ~~may operate a motor vehicle within this state~~ for a period of not more than thirty days in any calendar year without making an application for or obtaining an operator's license of this state; ~~provided, however, if that the person shall have~~individual has in that ~~person's~~individual's possession while driving in this state an official certificate showing the lawful registry of the motor vehicle and be able to prove that ~~person's~~individual's lawful possession or the right to operate ~~such~~the vehicle and to establish that ~~person's~~individual's identity.
 4. ~~d.~~ A member of the armed forces of the United States ~~may operate a motor vehicle in this state~~ while that ~~person~~individual is stationed in North Dakota, ~~provided~~if that ~~person~~individual has a valid current operator's license from another state.
 5. ~~e.~~ A person~~An individual~~ over sixteen years of age who becomes a resident of this state and who has in that ~~person's~~ possession a valid operator's license issued to that ~~person~~ ~~pursuant to~~individual under the laws of some other state or country or by military authorities of the United States ~~may operate a motor vehicle~~ for a period of not more than sixty days after becoming a resident of this state, ~~without being required to have a North Dakota operator's license.~~
 6. ~~f.~~ A member of the North Dakota national guard ~~may operate~~operating any military vehicles as authorized by a national guard operator's license while on duty.
2. For purposes of this chapter, ~~a person must be an individual is~~ deemed a resident of this state when the ~~person~~individual has lived in the state for ninety consecutive days, unless ~~such person~~the individual is a nonresident student, a tourist, or a member of the armed forces.

SECTION 7. AMENDMENT. Section 39-06-03 of the North Dakota Century Code is amended and reenacted as follows:

39-06-03. ~~What persons may not be licensed~~No operator's license to certain individuals.

The director may not issue any an operator's license hereunder:

1. To ~~any person~~ an individual who is under the age of sixteen years, except that the director may issue an instructional permit under section 39-06-04, a restricted permit or license under sections 39-06-05 and, or a license under section 39-06-17 to any person who is less than sixteen years of age.
2. To ~~any person~~ an individual whose license has been suspended or revoked in this state or in any other state during ~~such~~ the suspension, except ~~as provided in~~ under section 39-06.1-03 or 39-06.1-11, ~~nor~~ to any person whose license has been revoked, except ~~as provided in~~ under sections 39-06-35, 39-06-36, and 39-06.1-11.
3. To ~~any~~ an individual who is a habitual drunkard, or is a habitual user of narcotic drugs, or is a habitual user of any other drug to a degree that renders the individual incapable of safely ~~driving~~ operating a motor vehicle. The director has good cause to believe that an individual is a habitual drunkard or drug user if the individual has three or more convictions for violating section 39-08-01, or equivalent ordinance, or three or more administrative suspensions under chapter 39-20 within a five-year period. An individual who is a habitual drunkard or user may provide the director with adequate proof of the removal of the habit which may include satisfactory completion of a licensed alcohol or drug treatment program.
4. To ~~any person~~ an individual who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law.
5. To ~~any person~~ an individual who is required by this chapter to take an examination, unless ~~such person~~ the individual has successfully passed such examination.
6. To ~~any person~~ an individual who is required under the laws of this state to deposit security or file proof of financial responsibility and who has not deposited ~~such~~ the security or filed ~~such~~ the proof.
7. To ~~any person~~ when an individual if the director has good cause to believe that ~~such person~~ the individual by reason of physical or mental disability would not be able to operate a motor vehicle with safety ~~upon the~~ highways.
8. To ~~any person~~ an individual when the director has good cause to believe that the operation of a motor vehicle on the highways by ~~such person~~ that individual would be inimical to public safety or welfare.
9. Repealed by S.L. 1977, ch. 348, § 2.

¹²⁰ **SECTION 8. AMENDMENT.** Section 39-06-03.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-03.1. Nondriver photo identification card issued by director - Release of information - Penalty - Public awareness.

1. The director shall issue a nondriver color photo identification card to any North Dakota resident of this state who fulfills the requirements of this section. An

¹²⁰ Section 39-06-03.1 was also amended by section 7 of House Bill No. 1332, chapter 167.

application for an identification card must be made on a form furnished by the director. Within thirty days from receipt of a complete application that includes the applicant's social security number, unless the applicant is a nonimmigrant who is not eligible for a social security number, the director shall determine whether to issue and, if appropriate, issue a nondriver photo identification card to an applicant. The director may not withhold the issuance of a nondriver color photo identification card without reasonable cause. If the ~~person~~applicant is under the age of eighteen or at least the age of eighteen and under the age of twenty-one, the photo must be against the same color background required on a motor vehicle operator's license for an operator of that age. Subject to ~~subsection 1 of~~ section 39-06-19, identification cards expire eight years from the date of issue and may be renewed. The application must contain such other information as the director may require to improve identity security. ~~The director may require an applicant for an identification card to provide a social security card and proof of residence address.~~

2. To confirm the identity, date of birth, and legal presence of the applicant, the director or examining officer shall require satisfactory evidence be provided by the applicant. Satisfactory evidence includes a certified copy of the applicant's birth certificate or other evidence reasonably calculated to permit the determination of the date of birth, identification, and legal presence of the applicant by the director or examining officer. The director may require an applicant for an identification card to provide a social security card and proof of residence address.
3. ~~The application fee is eight dollars listed in section 39-06-49. Fees collected pursuant to this section must be paid monthly into the highway fund in the state treasury.~~
4. Any information obtained by the director from an applicant for the issuance, renewal, or replacement of an identification card ~~issuable pursuant to this chapter may only~~not be released in accordance with the provisions of ~~unless allowed under~~ section 39-16-03.
5. ~~It is a class B misdemeanor for any person, except the director or the director's authorized agent, to print or otherwise produce or reproduce cards or their components, which may be utilized as identification cards issued pursuant to this section.~~
6. The director may advertise the availability and the use of the card.
7. ~~6.~~ Identification cards issued pursuant to under this section are sufficient identification for all identification purposes.
8. ~~The director shall cancel any card upon determining that the holder is not entitled to the issuance of the card under the laws of this state, or the holder has failed to give the required or correct information to the director, or has committed fraud in making the application, or the fee was in the form of an insufficient or no account check. Upon cancellation, the holder shall surrender the card to the director. When a cancellation is in effect, any law enforcement officer may take custody of the card.~~
9. ~~A duplicate card may be obtained by making an application and paying an eight dollar fee. For a cardholder who has reached the age of eighteen or~~

~~twenty-one, a replacement card may be obtained by making an application and paying an eight dollar fee.~~

- ~~10. The director may not withhold the issuance of a nondriver color photo-identification card without reasonable cause.~~

¹²¹ **SECTION 9. AMENDMENT.** Section 39-06-04 of the North Dakota Century Code is amended and reenacted as follows:

39-06-04. ~~Instruction~~Class D instruction permit.

1. Any resident of this state who is at least fourteen years of age may apply to the director for a class D instruction permit.
2. The director may issue a class D instruction permit that entitles the applicant while having the permit in the permittee's immediate possession to drive a motor vehicle upon the public highways, 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 an individual with a class A, B, C, or D license corresponding to thein a vehicle the permittee operates~~allowed to be operated with a class D license, 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.
4. An individual who is not yet eighteen years of age is not eligible for a class D license until that 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.~~

¹²¹ Section 39-06-04 was also amended by section 1 of Senate Bill No. 2046, chapter 298.

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

SECTION 10. AMENDMENT. Section 39-06-05 of the North Dakota Century Code is amended and reenacted as follows:

39-06-05. Restricted instruction permit - When instruction permit not required.

1. The director upon receiving proper application may issue a restricted instruction permit effective for a school year or more restricted period to an applicant who is at least fourteen years of age and enrolled in a commercial driver training course ~~which that~~ includes practice driving and which is approved by the superintendent of the highway patrol pursuant ~~to under~~ chapter 39-25. ~~Such~~ The restricted instruction permit entitles the permittee when the permittee has ~~such a~~ the permit in the permittee's immediate possession to operate a motor vehicle ~~only with an approved instructor occupying a seat beside the permittee and~~ on a designated highway or within a designated area ~~but only when an approved instructor is occupying a seat beside the permittee.~~
2. Any student who is at least fourteen years of age and enrolled in behind-the-wheel driver's training through a high school program approved by the superintendent of public instruction may operate a motor vehicle, under the supervision of a driver training instructor certified by the superintendent of public instruction, without a permit or license to operate a motor vehicle; ~~provided, that if~~ the school district sponsoring the driver's training program has an insurance policy covering any damage ~~which that~~ may be done by ~~any such a~~ student while operating the vehicle; and ~~provided further that~~ proof of coverage is filed with the superintendent of public instruction by the school district's insurance carrier. The insurance coverage must be in the amount required under section 39-16.1-02.

SECTION 11. AMENDMENT. Section 39-06-06 of the North Dakota Century Code is amended and reenacted as follows:

39-06-06. Temporary operator's permit.

The director may issue a temporary operator's permit for the operation of a motor vehicle to an applicant for an operator's license pending an investigation and determination of facts relative to the applicant's right to receive an operator's license. The permit must be in the applicant's immediate possession while operating a motor vehicle and is invalid ~~when if~~ the applicant's license has been issued or denied.

SECTION 12. AMENDMENT. Section 39-06-07 of the North Dakota Century Code is amended and reenacted as follows:

39-06-07. Application for operator's license or instruction permit.

1. ~~Every application~~ An applicant for an ~~instruction permit or for an operator's license~~ must be made upon a form furnished by the director.
2. ~~Every application~~ An applicant must state on the application the full name, date of birth, sex, social security number, unless the applicant is a nonimmigrant who is not eligible for a social security number, residence and mailing address, and ~~briefly describe~~ provide a brief description of the applicant. ~~It~~ By

signing the application the applicant is deemed to have certified that all information contained on the application is true and correct. The application must be accompanied by the proper fee listed in section 39-06-49. The application must contain ~~such~~any other information as the director may require to improve identity security. The director may require an applicant for a license or instruction permit to provide a social security card and proof of residence address.

3. ~~Whenever~~If an application is received from a ~~person~~an individual previously licensed in another jurisdiction, the director may request a copy of the driver's record from ~~such~~the other jurisdiction. ~~When received, the~~A copy of another jurisdiction's driving record becomes a part of the driving record in this state with the same force and effect as though entered on the driving record in this state in the original instance.
4. ~~Whenever the director receives a request for a driving record from another licensing jurisdiction, the record must be forwarded without charge.~~

SECTION 13. AMENDMENT. Section 39-06-07.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-07.1. Proof of name, date of birth, and legal presence for operator's license application.

~~The~~An applicant must verify the applicant's name, date of birth, and legal presence on all applications must be verified any application by a certified birth certificate or ~~other satisfactory evidence.~~ Applicants must produce documents which will be acceptable as listed below:

1. Certified birth certificate; or
2. Any other documentary evidence ~~which~~that confirms to the satisfaction of the director the true identity, date of birth, and legal presence of the applicant.

SECTION 14. AMENDMENT. Section 39-06-07.2 of the North Dakota Century Code is amended and reenacted as follows:

39-06-07.2. Medical advice - Use by director - Definition Driver's duty to report certain injuries.

1. The director is authorized to seek professional medical advice from a licensed medical care provider and to use that advice in decisions made by the director in regard to the issuance, renewal, suspension, revocation, or cancellation of ~~driver's licenses~~an operator's license under this chapter. ~~The director may receive~~ advice may be received in any manner deemed ~~advisable by the director or the director's authorized agent.~~
2. In addition to advice sought and received under subsection 1, the director may consider information and advice received from an ~~individual~~ applicant's or ~~driver's~~motor vehicle operator's licensed ~~medical~~health care provider. Any examination and report requested by the applicant ~~or driver, motor vehicle operator,~~ or required to be taken and provided by the director under this chapter must be at the expense of the applicant or ~~driver~~motor vehicle operator.

3. Any licensed ~~medical~~health care provider providing advice to the director or director's authorized agent under subsection 4 does not incur any liability for any opinion, recommendation, or advice provided to the director under subsection 1.
4. Advice and information received by the director or director's authorized agent under subsection 1 which relates to an individual applicant or driver~~motor vehicle operator~~ is for the confidential use of the director or director's authorized agent in making decisions on the individual's qualifications as a driver, and the information may not be divulged to any person or used in evidence in any trial or proceeding except in matters concerning the individual's qualifications to receive or retain a driver's~~an operator's~~ license.
5. ~~General~~In addition to other sources of information, general advice and information received by the director or director's authorized agent under this section, ~~in addition to other sources of information,~~ may be used by the director in the adoption of administrative rules concerning medical criteria for driver licensing.
6. ~~As used in this section, "licensed medical care provider" means doctor of medicine, doctor of osteopathy, doctor of chiropractic, optometrist, psychologist, advanced practice registered nurse, or physician assistant, who is licensed, certified, or registered in accordance with laws and regulations in this or another state. Before operating any motor vehicle the holder of an operator's license issued under 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 this chapter as to reexamination of the licensee to determine if the licensee is capable of operating vehicles for which the licensee is licensed.~~

SECTION 15. AMENDMENT. Section 39-06-08 of the North Dakota Century Code is amended and reenacted as follows:

39-06-08. Application of minors.

The application of any minor for an ~~initial instruction permit or operator's license~~ must be signed and verified before a ~~person~~individual authorized to administer oaths or the director's agent~~director~~, by the father, mother, or legal guardian, or, ~~in the event if there is not a parent or legal guardian, then by another responsible adult who is willing to assume the obligation imposed under this chapter upon a person~~an individual signing the application of a minor.

SECTION 16. AMENDMENT. Section 39-06-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06-09. Liability for negligence of minor - General.

Any negligence of a minor when driving a motor vehicle upon a highway must be imputed to the ~~person~~individual who has signed the application of ~~such~~the minor for a ~~permit or an operator's license, which person must be. This individual is~~ jointly and severally liable with ~~such~~the minor for any damages caused by ~~such~~the negligence, except as ~~otherwise~~ provided in section 39-06-10.

SECTION 17. AMENDMENT. Section 39-06-10 of the North Dakota Century Code is amended and reenacted as follows:

39-06-10. Liability for negligence of minor - Proof of financial responsibility.

If a minor ~~deposits or there is deposited for the minor~~ provides proof of financial responsibility for the operation of a motor vehicle ~~owned by the minor, or for the operation of any motor vehicle, as required under the motor vehicle financial responsibility laws of this state,~~ then the director may accept the application of the minor.

SECTION 18. AMENDMENT. Section 39-06-11 of the North Dakota Century Code is amended and reenacted as follows:

39-06-11. Cancellation of minor's license or permit upon request.

~~Any person~~ An individual who has signed the application of a minor for a license may thereafter file with the director a verified written request ~~that to cancel the operator's license of the minor so granted be canceled. Thereupon, the~~ Upon receipt of the request, the director shall cancel the operator's license or permit of the minor and the ~~person~~ individual who signed the application of the minor is relieved from the liability imposed under this chapter by reason of having signed ~~such~~ the application on account of any subsequent negligence of the minor in operating a motor vehicle.

SECTION 19. AMENDMENT. Section 39-06-12 of the North Dakota Century Code is amended and reenacted as follows:

39-06-12. Cancellation of ~~minor's~~an operator's license or permit of a minor upon death of applicant.

The director upon receipt of satisfactory evidence of the death of the ~~person~~ individual who signed the application of a minor for ~~an~~ operator's license shall cancel the operator's license or permit and may not issue a new license or permit until such time as a new application, ~~duly signed and verified, is made as required by this chapter. This provision does not apply in the event the minor has attained the age of eighteen years~~ is made by the minor.

SECTION 20. AMENDMENT. Section 39-06-13 of the North Dakota Century Code is amended and reenacted as follows:

39-06-13. Examination of applicants.

The

1. ~~Unless otherwise provided in this chapter, the~~ director shall examine every applicant for an operator's license, ~~except as otherwise provided in this chapter. The examination must include a test of the applicant's eyesight, ability to read and understand highway signs regulating, warning, and directing traffic, and knowledge of the traffic laws of this state. During testing, The director shall make any written portion of the examination, except writing on illustrations of signs, must be made available to an applicant in any widely practiced language. The director may waive the written portion of the examination for an applicant who has successfully passed a written examination in another state and has an operator's license that is not or in the process of being revoked, suspended, or canceled or in the process of being revoked, suspended, or canceled. An~~
2. ~~The examination must include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle is also required, but may be~~ unless waived for an applicant who has successfully

~~passed an actual ability test in this or another state. Operators' examinations must be given at locations designated by the director. A minor may operate a motor vehicle no matter how owned for the actual ability test.~~

3. In lieu of an eyesight test, the applicant may provide a statement of examination from a licensed physician or an optometrist stating the corrected and uncorrected vision of the applicant, if the examination was within six months of the application.
4. The director may require any other physical or mental examination.

SECTION 21. AMENDMENT. Section 39-06-13.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-13.1. Fee for examination of applicants.

1. ~~Every~~An applicant for an operator's license who is required to be tested to determine the applicant's knowledge of highway signs, regulating, warning, and directing traffic and of the traffic laws of this state shall pay a fee of ~~five dollars~~listed in section 39-06-49.
2. ~~Every~~An applicant for an operator's license who is required to be tested to demonstrate the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle shall pay a fee of ~~five dollars~~listed in section 39-06-49.

SECTION 22. 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 operator's license.

1. ~~The~~Upon the payment of the application fee listed in section 39-06-49, the director, upon payment of a fifteen-dollar fee, shall issue to every qualified applicant an operator's license as applied for in the form prescribed by the director. An application for an operator's license must be made on a form furnished by the director. The operator's 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.
2. The license must bear either a facsimile of the signature of the licensee or a space upon which the licensee shall write the licensee's usual signature. An operator's license is not valid unless signed by the licensee with the licensee's usual signature. For purposes of verification, the director may require the licensee to write the licensee's signature in the presence of the director.
3. The operator's license must bear a distinguishing number assigned to the licensee. 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.
4. The operator's license must bear a color photograph of the licensee. The director may adopt rules relating to the manner in which photographs are to be obtained and placed on an operator's license. The photograph may be produced by digital imaging or other electronic means and is not a public

record. 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. ~~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.~~

5. Upon request and with adequate documentation, the director shall place an indicator on the face of an operator's license of a veteran. The veteran may make the request through the department of veterans' affairs.
- 2-6. An applicant holding a valid North Dakota operator's license issued by this state and making application for renewal must be issued a class D license without being subjected to a written or actual ability examination.
3. ~~An~~ The director shall issue to any other 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 a successful examination in the type of motor vehicle or combination of vehicles for which the particular class of license is desired and which the particular license shall authorize authorizes the holder to drive the particular class of vehicles as provided designated in section 39-06.2-09; or as follows: this chapter.
- a-7. ~~A driver~~ An individual with a class D license may operate any:
 - a. A single vehicle with a gross vehicle weight rating of twenty-six thousand pounds [11793.40 kilograms] or less or any such this vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand pounds [4535.92 kilograms] or a combination of vehicles with a gross combination weight or a gross combination weight rating in excess of twenty-six thousand pounds [11793.40 kilograms] if the individual is eighteen years of age or older, unless the individual is driving a farm vehicle and meets the requirements of subdivision e of subsection 7 of this section and subsection 3 of section 39-06.2-06. A driver with a class D license may operate a
 - b. A farm tractor towing another vehicle having a gross weight in excess of ten thousand pounds [4535.92 kilograms], and may operate a.
 - c. A truck towing a trailer in excess of ten thousand pounds [4535.92 kilograms] provided if the combined weight does not exceed twenty-six thousand pounds [11793.40 kilograms] gross combination weight rating. A driver with a class D license may operate a
 - d. A house car or a vehicle towing a travel trailer being used solely for personal purposes.

- e. A driver with a class D license must be eighteen years of age or older to operate a combination of vehicles with a gross combination weight or a gross combination weight rating in excess of twenty-six thousand pounds [11793.40 kilograms], unless the driver is driving a farm vehicle and meets the requirements of subdivision b of subsection 3 of section 39-06-14 and subsection 3 of section 39-06-2-06.
- b. A driver with a class D license may operate any two-axle or tandem-axle motor vehicle, a triple-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 individual is exempted from a commercial driver's license under subsection 3 of section 39-06.2-06, except the driver individual may not operate a double trailer, or triple trailer, or, if and an individual under eighteen years of age, may not operate a truck tractor as defined in section 39-01-04 or a bus designed to carry sixteen or more passengers, including the driver.
- e. 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.~~
- 5-8. ~~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. ~~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. ~~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 23. Section 39-06-14.1 of the North Dakota Century Code is created and enacted as follows:

39-06-14.1. Motorcycle operator's licenses and motorized bicycles.

1. 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. 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.
2. An individual 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. 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.
- b. 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 must 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.
 - c. 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 must hold an initial learner's permit for at least two months before applying for a class M operator's license, must have completed an approved motorcycle safety course, and must 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 may not operate a motorcycle powered with an engine in excess of two hundred fifty cubic centimeters 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.
3. 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 as listed in section 39-06-49 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 24. AMENDMENT. Section 39-06-16 of the North Dakota Century Code is amended and reenacted as follows:

39-06-16. License to be carried and exhibited on demand.

~~A licensee~~An individual licensed to operate a motor vehicle shall have the licensee's operator's license or permit in the licensee's individual's immediate possession at all times when operating a motor vehicle and shall physically surrender the ~~operator's license or permit,~~ upon demand of any ~~district court, municipal court, a patrolman, peace~~police officer, or a field deputy or inspector of the department. However, a ~~person~~an individual charged with violating this section may not be convicted or assessed any court costs if the ~~person~~individual produces in court, ~~to the chief of police, or in the office of the arresting officer~~ a valid operator's license or permit issued to that person and valid and individual that is not under suspension, revocation, or cancellation at the time of the ~~person's~~individual's arrest.

¹²² **SECTION 25. 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~~Upon issuing an operator's license or a temporary restricted operator's license pursuant to ~~under~~ section 39-06.1-11, ~~has authority to the director may~~ impose restrictions suitable to ~~the~~ licensee's driving ability with respect to the type of ~~or motor vehicle,~~ special mechanical control devices required on a motor vehicle ~~which that~~ the licensee may operate, or ~~such any~~ 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 class D license or may state the restrictions upon the usual license form. In the same manner, the director shall restrict licenses under section 39-16.1-09.
- 3-2. ~~A~~The director may issue a restricted operator's class D license ~~or permit~~ to operate the parent's, guardian's, grandparent's, sibling's, aunt's, or uncle's automobile, ~~or an automobile which is equipped with dual controls and while accompanied by a qualified instructor, may be issued to any child~~ a minor, who is at least ~~fourteen~~fifteen years of age, and otherwise qualified, upon the written recommendation of the parent or guardian. A ~~child~~minor may operate an ~~automobile~~ motor vehicle that is not the parent's or guardian's to take the road~~actual ability~~ test. ~~No operator's~~The parent, guardian, grandparent, sibling, aunt, or uncle at all times is responsible for any and all damages growing out of the negligent operation of a motor vehicle by a minor. A restricted class D license may not be issued until the child to a minor unless the minor, accompanied by the parent or guardian, appears in person and satisfies the director that:
 - a. The ~~child~~minor is at least ~~fourteen~~fifteen years of age;
 - b. The ~~child~~minor is qualified to operate an automobile safely;
 - c. It is necessary for the child to drive the parent's, guardian's, grandparent's, sibling's, aunt's, or uncle's automobile without being accompanied by an adult;
 - d. The ~~child~~minor has:
 - (1) ~~Successfully~~ 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~~has successfully completed a course at an approved commercial driver training school; and
 - e. The ~~child~~minor 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.

¹²² Section 39-06-17 was also amended by section 1 of House Bill No. 1027, chapter 292.

~~The parent, guardian, grandparent, sibling, aunt, or uncle at all times is responsible for any and all damages growing out of the negligent operation of a motor vehicle by any such child.~~

- ~~3.~~ 3. The provisions of this subsection 2 do not authorize the ~~child~~ minor to drive a commercial truck, motorbus, or taxicab except the holder of a restricted 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~~while 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.~~ 4. A minor with a restricted class D license issued under subsection 2 may operate the type or class of motor vehicle specified on the restricted license 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 class D license driving a motor vehicle may not carry more passengers than the vehicle manufacturer's suggested passenger capacity.
 - c. An individual holding a restricted class D 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 class D 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.
- ~~5.~~ 5. Upon receiving satisfactory evidence of any violation of the restrictions of a license, the director may suspend or revoke the license but the licensee is entitled to a hearing as upon a suspension or revocation under this chapter.
- ~~5-6.~~ 5-6. It is a class B misdemeanor for ~~any person~~ an individual 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~~ under this section except for the restrictions in subsection 4.
- ~~7.~~ 7. If ~~the~~ a ~~temporary~~ 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~~. Upon receiving notice of the conviction the director shall revoke, without opportunity for hearing, the licensee's temporary restricted license and shall extend the underlying suspension for a like period of not more than one year. The director may not issue a temporary restricted license for the extended period of suspension imposed under this subsection.

8. If the conviction referred to in this section is reversed by an appellate court, the director shall restore the person individual to the status held by the person prior to ~~the individual before~~ 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 26. AMENDMENT. Section 39-06-18 of the North Dakota Century Code is amended and reenacted as follows:

39-06-18. Duplicate certificates Substitute operator's license.

~~In the event that a permit or an operator's license or nondriver photo identification card issued under this chapter is lost, mutilated, or destroyed, or contains erroneous information due to a change in name, address, or for any other reason, the person individual to whom the same operator's license or identification card was issued may obtain a duplicate, or substitute, upon by furnishing proof satisfactory to the director that the permit or operator's license or identification card has been lost, mutilated, or destroyed, or is erroneous, and upon payment of a fee listed in section 39-06-49. The fee is eight dollars for a duplicate or substitute permit or license for a license or permit that was lost, mutilated, or destroyed, or is being replaced for any other reason, except the fee is three dollars for a duplicate or substitute permit or license for a license or permit that contains erroneous information due to a change in name or address. If an individual has a name change, the individual shall obtain a substitute license or identification card with the correct name.~~

SECTION 27. AMENDMENT. Section 39-06-19 of the North Dakota Century Code is amended and reenacted as follows:

39-06-19. Expiration of license - Renewal.

1. Every operator's license issued under this chapter or chapter 39-06.2 expires and is renewed according to this section.

2. The expiration date of a noncommercial operator's license for a ~~person~~ individual whose birth occurred in a year ending in an odd numeral is twelve midnight on the anniversary of the birthday in the third subsequent year ending in an odd numeral, except for an individual who, at the time of renewal, is seventy-eight years of age or older is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an odd numeral. The expiration date of a noncommercial operator's license for a ~~person~~ individual whose birth occurred in a year ending in an even numeral is twelve midnight on the anniversary of the birthday in the third subsequent year ending in an even numeral, except for an individual who, at the time of renewal, is seventy-eight years of age or older is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an even numeral.
3. The expiration date of a commercial operator's license for a ~~person~~ individual whose birth occurred in a year ending in an odd numeral is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an odd numeral. The expiration date of a commercial operator's license for a ~~person~~ individual whose birth occurred in a year ending in an even numeral is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an even numeral. ~~A person~~
4. An individual who has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, a pending application for asylum in the United States, a pending or approved application for temporary protected status in the United States, approved deferred action status, or a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence or conditional permanent residence status in the United States will be issued a temporary operator's license or nondriver photo identification card. The temporary operator's license or identification card is valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year. The license or card may be renewed only upon presentation of valid documentary evidence that the status has been extended.
2. ~~If the licensee has reached the age of eighteen, and desires reissuance of a license with the distinctive background for licensees at least the age of eighteen and under the age of twenty-one, the applicant may apply at any time for a replacement license. If the licensee has reached the age of twenty-one and desires reissuance of a license without the distinctive color background required by section 39-06-14, the applicant may apply at any time for a replacement license.~~
- 3-5. An applicant for renewal must present the application with the fee for renewal of license to the director not before ten months before the expiration date of the operator's license. The director may require an examination of an applicant as upon an original application. The director may require an applicant for renewal, ~~replacement~~, or a substitute to provide a social security card and proof of residence address. 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.
6. The director may not renew an operator's license if the license has been suspended under section 14-08.1-07. Upon the recommendation of the court,

the director may issue a temporary permit to the licensee under section 39-06.1-11 if the temporary permit is necessary for the licensee to work and the court has determined the licensee is making a good-faith effort to comply with the child support order.

- ~~4.7. Every application~~An applicant for renewal of ~~aan operator's license by an applicant must be accompanied by~~provide a certificate of examination from either the driver licensing or examining authorities or a statement as to the corrected and uncorrected vision of the applicant from a licensed physician or an optometrist, licensed in this or another state, containing a statement as to the corrected and uncorrected vision of the applicant. The director shall provide visual examination equipment at each location where a license may be renewed. The initial application for a motor vehicle operator's license may be accompanied by a statement of examination from a licensed physician or an optometrist, stating the corrected and uncorrected vision of the applicant, in lieu of the department examination. This examination must be within six months of the driver's license application.
- ~~5.8. Every person~~An individual submitting an application and the fee for renewal of license one year or more after the expiration of a license, except an applicant whose military service has terminated less than thirty days prior to ~~such~~the application, must be treated as a ~~new driver~~an initial applicant.
6. The fee for renewal or replacement of an operator's license is ten dollars.

SECTION 28. AMENDMENT. Section 39-06-19.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-19.1. Extended term of license held by members of the armed forces - Limitations.

A valid operator's license issued under the provisions of this chapter to a resident of ~~North Dakota~~this state who enters or is in the United States armed forces and serving upon an active duty with such forces continues in full force and effect so long as the active service continues and the licensee remains absent from this state, and for not to exceed thirty days following the date on which the holder of ~~such~~this license is honorably separated from ~~such~~this service or returns to this state, unless the license is sooner suspended, canceled, or revoked for cause ~~as provided by law.~~ The license is valid only ~~when~~if in the immediate possession of the licensee while driving and the licensee has the licensee's discharge or separation papers, if the licensee has been discharged or separated from the service, or has documentation authorizing the licensee to be absent from the licensee's duty station in the licensee's immediate possession.

SECTION 29. AMENDMENT. Section 39-06-20 of the North Dakota Century Code is amended and reenacted as follows:

39-06-20. Notice of change of address or name.

~~Whenever a person~~If an individual after applying for or receiving an operator's license or permit moves from the address named in the application or ~~in~~on the license or permit issued to that person or ~~when~~if the name of a licensee is changed by marriage or otherwise, that ~~person shall~~individual within ten days ~~thereafter~~after moving or the name change shall notify the director in writing or in person of that ~~person's~~individual's old and new addresses or of ~~such~~the individual's former and new names and of the number of any operator's license or permit then held by that

person. ~~A person~~ An individual may obtain a corrected operator's license or permit by making an application as provided for in section 39-06-18. ~~In the event of a name change, a corrected license must be obtained.~~ The department may change the address based on information received from any authorized address correction service of the United States postal service. The department may also develop procedures for receiving notification of address changes by telephone or electronic means.

SECTION 30. AMENDMENT. Section 39-06-21 of the North Dakota Century Code is amended and reenacted as follows:

39-06-21. Filing application records.

The director shall file ~~every~~ and maintain each application for a license ~~and shall maintain each application for a license received and shall maintain with~~ suitable indexes containing:

1. All applications denied and on each ~~such~~ denied application note the reason for the denial;
2. All applications granted; and
3. The name of every licensee whose operator's license has been suspended, revoked, canceled, or restricted by the department and after each ~~such~~ name state the reasons for such actions.

SECTION 31. AMENDMENT. Section 39-06-22 of the North Dakota Century Code is amended and reenacted as follows:

39-06-22. Driving records of licensees.

The director shall file all accident reports and abstracts of court records of convictions received by the director under the laws of this state and ~~in connection therewith~~ maintain convenient records or make suitable notations in order that ~~an individual~~ each record of each licensee showing the convictions of ~~such~~ the licensee and the traffic accidents in which the licensee has been involved ~~shall be~~ readily ascertainable and available for the consideration of the director ~~upon any application for renewal of license and at other suitable times.~~

SECTION 32. AMENDMENT. Section 39-06-24 of the North Dakota Century Code is amended and reenacted as follows:

39-06-24. Authority to cancel licenses.

1. The director shall cancel any operator's license, ~~permit,~~ or nondriver photo identification card upon determining that the ~~person~~ individual is not entitled to the issuance of the document ~~under the laws of this state~~ or that ~~said person~~ the individual failed to give the required or correct information on the application or the fee was invalid. Invalid fees include being in the form of an insufficient fund or no-account check or a credit or debit card in which the transaction was canceled by the applicant before the department received correct payment. The making of a false statement in any application for an operator's license, ~~permit,~~ or nondriver photo identification card, concerning the applicant's age or the prior loss of driving privileges through a cancellation, suspension, revocation, or similar sanction in any state, is grounds for the

director to cancel any document or privilege issued on the basis of the application.

2. Upon cancellation, the holder shall surrender the nondriver photo identification card to the director or any police officer may take custody of the card.

SECTION 33. AMENDMENT. Section 39-06-25 of the North Dakota Century Code is amended and reenacted as follows:

39-06-25. Suspending privileges of nonresidents.

The privilege of driving a motor vehicle on the highways of this state given to a nonresident hereunder is subject to suspension or revocation by the director in like manner and for like cause as an operator's license issued hereunder in this title may be suspended or revoked.

SECTION 34. AMENDMENT. Section 39-06-26 of the North Dakota Century Code is amended and reenacted as follows:

39-06-26. Reporting convictions, suspensions, or revocations of nonresidents.

1. ~~The director may, upon~~Upon receiving a record of the conviction or adjudication in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, or ~~an equivalent ordinance of any of its political subdivisions~~ordinance, the director may notify the licensing authority in the state ~~wherein the person so convicted~~in which the nonresident resides or is licensed.
2. ~~When~~If a nonresident's operating privilege is suspended or revoked ~~pursuant to any~~under the law of this state, the director shall notify the licensing authority in the state ~~wherein such~~in which the nonresident resides or is licensed.

SECTION 35. AMENDMENT. Section 39-06-27 of the North Dakota Century Code is amended and reenacted as follows:

39-06-27. Suspending licenses upon conviction, suspension, or revocation in another jurisdiction.

1. The director may suspend or revoke the operator's license of any resident of this state or the privilege of a nonresident to ~~drive~~operate a motor vehicle in this state upon receiving notice of the conviction of that ~~person~~individual in a tribal court or in another state of an offense ~~therein which, which~~ if committed in this state, would be grounds for the suspension or revocation of ~~the~~an operator's license of an operator. The director may act on a report of a conviction in tribal court received from any tribal law enforcement agency. This section may not be construed as authorizing the assessment of points against a ~~resident driver's~~resident's driving record in accordance with chapter 39-06.1, except upon conviction of a resident driver for a criminal offense in a tribal court or in another state which is equivalent to one of those offenses defined in section 39-06.1-05. A suspension or revocation may not be imposed for convictions for driving under suspension or revocation on an Indian reservation or in another state if a valid ~~North Dakota license or permit~~operator's license from this state was in effect at the time of the violation. For purposes of this section, originals, photostatic copies, ~~or~~and electronic transmissions of the records of the driver's licensing or other

authority of the other jurisdiction are sufficient evidence ~~whether or not they are even if not certified copies.~~

2. Upon receipt of a certification that the operating privileges of a resident of this state have been suspended or revoked on an Indian reservation or in any other state ~~pursuant to~~ under a law providing for the suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident; if under circumstances that would require the director to suspend a nonresident's operating privileges had the accident occurred in this state, the director shall suspend the license of the resident if the resident was the driver of a motor vehicle involved in the accident. The suspension continues until the resident furnishes evidence satisfactory to the director of the ~~person's~~ resident's compliance with the laws of the Indian reservation or the other state relating to the deposit of security or payment of a judgment arising out of a motor vehicle accident, to the extent that compliance would be required if the accident had occurred in this state.

SECTION 36. AMENDMENT. Section 39-06-28 of the North Dakota Century Code is amended and reenacted as follows:

39-06-28. Courts to forward license to director upon certain convictions.

~~Whenever any person~~ If an individual is convicted of any offense for which this chapter makes mandatory ~~requires~~ the revocation of the operator's license of such ~~person~~ that individual by the director, the court in which such of the conviction is had shall require the surrender to it ~~the court~~ of any operator's license then held by the person so convicted and the ~~convicted individual~~. The court shall thereupon ~~then~~ forward the same together with ~~operator's license and~~ a record of such ~~the~~ conviction to the director.

SECTION 37. AMENDMENT. Section 39-06-31 of the North Dakota Century Code is amended and reenacted as follows:

39-06-31. ~~Mandatory revocation~~ Revocation of licenses.

1. A period of revocation is at least thirty days and not more than one year, unless otherwise provided by law.
2. The director shall revoke ~~forthwith~~, for a period of one year, or for such a period as may be recommended by the trial court, the operator's license of any ~~operator~~ an individual upon receiving a record of such ~~operator's~~ the individual's conviction of any of the following offenses:
 - 1- a. Any ~~A~~ felony, including a violation of chapter 12.1-16, in which a motor vehicle was used in the commission of which a motor vehicle is used ~~the~~ the felony.
 - 2- b. Any ~~A~~ misdemeanor resulting from the operation of a motor vehicle and causing serious bodily injury, as defined in section 12.1-01-04, to another ~~person~~ individual.
 - 3- c. The making of a false affidavit or statement under oath to the director under this chapter or under any other law relating to the ownership or operation of motor vehicles.

3. The revocation of the license under this section may be beyond any time of imprisonment or court-ordered addiction treatment.

SECTION 38. AMENDMENT. Section 39-06-32 of the North Dakota Century Code is amended and reenacted as follows:

39-06-32. Authority to suspend licenses.

1. The director may suspend the operator's license of an operator individual, after hearing, upon proof by a fair preponderance of the evidence, that any of the following apply to the licensee:
 1. a. Commission of an offense for which mandatory revocation of license is required upon conviction.
 2. b. Incompetence to drive a motor vehicle.
 3. c. Unlawful or fraudulent use of an operator's license.
 4. d. Refusal to submit to an implied consent chemical test on an Indian reservation or in another state. For purposes of this subsection, the specific requirements for establishing a refusal used on the Indian reservation or in the other state may not be considered, and photostatic copies of the records of the other jurisdiction's driver's licensing authority are sufficient evidence of the refusal whether or not those copies are certified. The suspension must be for the same length of time as the revocation in section 39-20-04. If the refusal arose out of an arrest or stop of a person an individual while operating a commercial motor vehicle, the period of suspension must be the same as the period of revocation provided in section 39-06.2-10.
- 5-2. Failure, as shown by the certificate of the court, to pay a fine or serve any other sentence as ordered by a court upon conviction for any criminal traffic offense.
- 6-3. Failure, as shown by the certificate of the court, to appear in court or post and forfeit bond after signing a promise to appear, if signing is required by law, in violation of section 39-06.1-04, willful violation of a written promise to appear in court, in violation of section 39-07-08, or violation of equivalent ordinances or laws in another jurisdiction. Upon resolution by the operator of the underlying cause for a suspension under this subsection, as shown by the certificate of the court, the director shall record the suspension separately on the driving record. This separate record is not available to the public.
- 7-4. An administrative decision on an Indian reservation or in another state that the licensee's privilege to drive on that Indian reservation or in that state is suspended or revoked because of a violation of that Indian reservation's or state's law forbidding motor vehicle operation with 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, or because of a violation of that Indian reservation's or state's law forbidding the driving or being in actual physical control of a commercial motor vehicle while having an alcohol concentration of at least four one-hundredths of one percent by weight. The specific requirements for establishing the violation on the Indian reservation or in the other state may not be considered and certified copies of the records of

the Indian reservation's or other state's driver's licensing authority are sufficient evidence of the violation. The suspension must be for the same duration as the suspension in section 39-20-04.1, if the violation does not involve a commercial motor vehicle. If the violation involves a commercial motor vehicle, the period of suspension must be the same as the period of suspension provided in section 39-06.2-10. For purposes of this section, originals, photostatic copies, or electronic transmissions of the records of the driver's licensing or other authority of the other jurisdiction are sufficient evidence whether or not they are certified copies.

- 8-5. Conviction of an offense under this title and it appears from the director's records that the offense contributed to causing an accident which resulted in death or serious personal injury or serious property damage. ~~No~~ A suspension may not be imposed if the ~~person~~individual has been sanctioned for the same offense under section 39-06-31.

SECTION 39. AMENDMENT. Section 39-06-32.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-32.1. Juvenile delinquent's suspension of driving privileges.

Upon receipt of a copy of an order of a juvenile court ordering the suspension of a ~~juvenile's driving privileges~~child operator's license, the director shall suspend the ~~juvenile's driver's operator's license or permit~~ and make notation of the length of time of the suspension of ~~driving privileges~~. During the time of the ~~juvenile's suspension of driving privileges~~, ~~no~~ an application for a ~~driver's class D instruction permit~~ may ~~not~~ be accepted from the ~~juvenile~~child. For purposes of this section, "child" is defined by section 27-20-02.

SECTION 40. AMENDMENT. Section 39-06-33 of the North Dakota Century Code is amended and reenacted as follows:

39-06-33. Hearings on suspension or revocation.

1. ~~In matters of driver's license suspension or revocation arising is suspended or revoked under sections section 39-06-32 and/or 39-06.1-10 and chapters or chapter 39-16 and/or 39-16.1,~~ the director shall give notice of intention to suspend to the licensee by mailing the notice to the licensee at the address of record in the department under section 39-06-20. Actual notice of the opportunity for a hearing under this section must be deemed to have occurred seventy-two hours after the notice is mailed by regular mail. The licensee has ten days after the date of mailing of the notice to request, in writing or by other means authorized by the director, a hearing on the intended suspension or revocation.
2. Any hearing conducted under this section and any appeal from the decision of the hearing must be conducted under chapter 28-32, except the hearing must be heard within sixty days of the receipt of the request for hearing and in the county of the licensee's residence, unless the parties agree to a different time and place for the hearing. At the hearing, the regularly kept records of the director may be introduced and are prima facie evidence of their content without further foundation.
3. The mailing of the decision and the resulting order by regular mail to the address recorded in the files of the director under section 39-06-20 is

sufficient notice. If a suspension is ordered, a reexamination of the licensee may be required.

4. If a suspension is ordered under subdivision b of subsection 21 of section 39-06-32, the notice must include a specific description of the conditions which led to the conclusion that the licensee is incompetent to drive a motor vehicle. If during the suspension those conditions dissipate, the licensee may request another hearing on the issue of competence to drive a motor vehicle. The hearing must be held in the manner required under subsections 2 and 3 for the original suspension.

SECTION 41. AMENDMENT. Section 39-06-34 of the North Dakota Century Code is amended and reenacted as follows:

39-06-34. Director may require reexamination.

In addition to ~~any other powers set forth in this chapter~~power, the director, having good cause to believe that ~~a licensed operator~~an individual with an operator's license is incompetent or otherwise not qualified to be licensedfor the operator's license, may upon written notice of at least five days to the ~~licensee~~individual require the ~~licensee~~individual to submit to such physical, mental, or driver's examination as may be deemed necessary by the director. If the director has good cause to believe that the ~~licensed operator~~individual presents an immediate danger to the motoring public, the director may immediately, and without prior notice, suspend the operator's license of the individual pending the examination. The notice of suspension must provide the ~~operator~~individual with the opportunity for a hearing within five days of the receipt of the notice of suspension. When a hearing is requested ~~it~~, the hearing must be conducted under section 39-06-33 and the hearing officer's recommended decision must be rendered within two days of the conclusion of the hearing. Upon the conclusion of ~~such~~the examination, the director shall take action as may be appropriate and may suspend or revoke the license of ~~such person~~the individual or permit the ~~licensee~~individual to retain the license, or may issue a license subject to restrictions as permitted under section 39-06-17. ~~Refusal~~The director may suspend or revoke the operator's license of the individual for refusal or neglect of the ~~licensee~~individual to submit to ~~such an~~an examination shall be grounds for suspension or revocation of the license.

SECTION 42. AMENDMENT. Section 39-06-34.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-34.1. Court may require reexamination.

In addition to ~~any other powers set forth in this chapter~~, the court, upon finding of a moving motor vehicle violation which leads the court to believe the ~~licensed operator~~an individual with an operator's license is not qualified to be licensedfor the operator's license, may direct the director or director's duly authorized agent to require the ~~licensee~~individual to submit to reexamination pursuant to ~~under~~ section 39-06-13. Written notice of at least five days must be given to the ~~licensee~~individual by the director of ~~such~~the reexamination. Upon the conclusion of ~~such~~the examination, the director shall take action as may be appropriate and may suspend or revoke the license of ~~such person~~the individual or permit the ~~person~~individual to retain the ~~person's~~operator's license, or may issue a license subject to restrictions as permitted under section 39-06-17. ~~Refusal~~The director may suspend or revoke the operator's license of the individual for refusal or neglect of the ~~licensee~~individual to submit to ~~such~~the examination shall be grounds for suspension or revocation of the ~~licensee's~~license.

¹²³ **SECTION 43. AMENDMENT.** Section 39-06-35 of the North Dakota Century Code is amended and reenacted as follows:

39-06-35. Period of suspension.

When

1. ~~After the period of suspension imposed under this title ceases, the operator's license or driving privilege of an individual that has been suspended remains suspended and may not be returned or reinstated, and remains under suspension, until the operator individual pays to the director a reinstatement fee of fifty dollars, or twenty-five dollars if the suspension was the result of a suspension under subsection 4, 5, or 7 of section 39-06-03 or subsection 2 of section 39-06-32, or one hundred dollars if the suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if as listed in section 39-06-49. If applicable, the operator's license may not be returned until compliance with subsection 3.1 of section 39-06.1-10. Upon payment of the reinstatement fee the license must be returned to the operator individual. If the individual submits payment of the reinstatement fee is submitted with a check or a credit card, or debit card and the operator individual stops payment on the transaction, the director shall reimpose the suspension will be reimposed until the director receives proper payment has been made to the director.~~
 1. After the period of suspension imposed under this title ceases, the operator's license or driving privilege of an individual that has been suspended remains suspended and may not be returned or reinstated, and remains under suspension, until the operator individual pays to the director a reinstatement fee of fifty dollars, or twenty-five dollars if the suspension was the result of a suspension under subsection 4, 5, or 7 of section 39-06-03 or subsection 2 of section 39-06-32, or one hundred dollars if the suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if as listed in section 39-06-49. If applicable, the operator's license may not be returned until compliance with subsection 3.1 of section 39-06.1-10. Upon payment of the reinstatement fee the license must be returned to the operator individual. If the individual submits payment of the reinstatement fee is submitted with a check or a credit card, or debit card and the operator individual stops payment on the transaction, the director shall reimpose the suspension will be reimposed until the director receives proper payment has been made to the director.
2. A reinstatement fee is not required for a license to be returned to the operator if the return of the license is due to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter 39-06, 39-06.1, or 39-20.

SECTION 44. 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 personAn individual whose operator's license or privilege to drive a motor vehicle on the public highways has been revoked is not entitled to have such license or privilege the operator's license renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of the revocation period such personthe individual 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 personthe individual that it will be safe to grant the privilege of driving a motor vehicle on the public highwaysan operator's license to that individual. A personAn individual whose operator's 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 of section 39-06-17, section 39-06-31, 39-06-43, or 39-20-04as listed in section 39-06-49, in addition to any license renewal fee, for issuance of a new license. If the individual submits payment of a reinstatement fee is submitted with a check or a credit card, or debit card and the operator individual stops payment on the transaction, the director shall reimpose a suspension will be reimposed until the director receives proper payment has been made to the director. 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~~
 Any personAn individual whose operator's license or privilege to drive a motor vehicle on the public highways has been revoked is not entitled to have such license or privilege the operator's license renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of the revocation period such personthe individual 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 personthe individual that it will be safe to grant the privilege of driving a motor vehicle on the public highwaysan operator's license to that individual. A personAn individual whose operator's 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 of section 39-06-17, section 39-06-31, 39-06-43, or 39-20-04as listed in section 39-06-49, in addition to any license renewal fee, for issuance of a new license. If the individual submits payment of a reinstatement fee is submitted with a check or a credit card, or debit card and the operator individual stops payment on the transaction, the director shall reimpose a suspension will be reimposed until the director receives proper payment has been made to the director. 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

¹²³ Section 39-06-35 was also amended by section 1 of Senate Bill No. 2044, chapter 295.

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 45. AMENDMENT. Section 39-06-37 of the North Dakota Century Code is amended and reenacted as follows:

39-06-37. Surrender and return of license - Duration of multiple suspensions and revocations for separate violations.

1. The director upon canceling or revoking ~~aan operator's~~ license shall require that ~~such~~the license must be surrendered to and be retained by the director.
2. ~~If any person fails immediately to return to the director any license or permit which has been canceled or revoked, the order of the director shall authorize any peace officer or the director's designated agent to secure possession thereof and return the same to the director. A suspension, revocation, or cancellation ordered under this title must be deemed to have commenced when the order is delivered to the licensee at the address of record in the department pursuant to~~under section 39-06-20. Constructive delivery under this section must be considered as occurring forty-eight hours after the order is mailed to the person by regular mail.
3. Unless otherwise specifically provided in this title, any suspension, revocation, cancellation, or denial of licensing ordered under ~~any provision of~~ this title must be in addition to, and run consecutive to, any other or existing suspension, revocation, cancellation, or denial of licensing ordered for a separate violation.

SECTION 46. AMENDMENT. Section 39-06-38 of the North Dakota Century Code is amended and reenacted as follows:

39-06-38. No operation under foreign license during suspension or revocation in this state.

Any resident or nonresident whose operator's license ~~or right or privilege to operate a motor vehicle~~ in this state has been suspended or revoked ~~as provided in~~under this title may not operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during ~~such~~the suspension or after ~~such~~the revocation until a new operator's license is obtained when and as permitted under this title.

SECTION 47. AMENDMENT. Section 39-06-40 of the North Dakota Century Code is amended and reenacted as follows:

39-06-40. Unlawful use of license - Penalty.

1. It is a class B misdemeanor for ~~any person~~an individual:
4. a. To display or cause or permit to be displayed or have in possession any canceled, revoked, fictitious, or fraudulently altered operator's license, ~~permit,~~ or nondriver photo identification card;
2. b. To lend ~~one's~~that individual's operator's license, ~~permit,~~ or nondriver photo identification card to any other ~~person~~individual or knowingly permit the use ~~thereof~~of that individual's operator's license or nondriver photo identification card by another individual;

3. c. To display or represent as ~~one's~~an individual's own any operator's license, ~~permit,~~ or nondriver photo identification card not issued to that ~~person~~individual;
4. d. To fail or refuse to surrender to the director upon demand any operator's license, ~~permit,~~ or nondriver photo identification card ~~which~~that has been suspended, revoked, or canceled;
5. e. To permit any unlawful use of an operator's license, ~~permit,~~ or nondriver photo identification card issued to that ~~person~~individual; or
6. f. To use a false or fictitious name in any application for an operator's license, ~~permit,~~ or nondriver photo identification card or to knowingly make a false statement or to conceal a material fact or otherwise commit a fraud in the application.

The director upon

2. Within five days of receiving a record of conviction or other satisfactory evidence of the violation of this section, ~~the director~~ shall revoke ~~within five days,~~ the ~~person's~~individual's operator's license, ~~driving privileges,~~ ~~permit,~~ or nondriver photo identification card. The director may set the period of revocation is ~~at the discretion of the director,~~ not to exceed six months.

SECTION 48. AMENDMENT. Section 39-06-40.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-40.1. Reproducing operator's ~~or driver's~~ license ~~or permit~~ - Penalty.

1. It is unlawful for ~~any person~~an individual to print, photograph, photostat, duplicate, alter, or in any way reproduce any operator's license, ~~permit,~~ nondriver photo identification card, or facsimile thereof ~~of an operator's license or card,~~ or to print, photograph, photostat, duplicate, alter, or in any way reproduce any document used in the production of any operator's ~~or driver's~~ license or ~~permit~~card or facsimile thereof ~~of an operator's license or card,~~ in ~~such~~ a manner that it would be mistaken for a valid license or document containing valid information, or to display or have in possession any ~~such~~ print, photograph, photostat, duplicate, reproduction, or facsimile unless authorized by law.
2. It is unlawful for ~~any person~~an individual to alter in any manner any operator's license, ~~permit,~~ or nondriver photo identification card or to display or have in possession ~~any such document~~an altered operator's license or nondriver photo identification card.
3. ~~Every person~~An individual violating the provisions of this section is guilty of a class B misdemeanor.
4. ~~The director upon~~Within five days of receiving a record of conviction or other satisfactory evidence of the violation of this section, the director shall immediately revoke the operator's license, ~~driving privileges,~~ ~~or permit~~ or cancel the nondriver photo identification card of the ~~person~~individual. ~~In like manner, a nondriver photo identification card shall be canceled.~~ The director may set the period of revocation is ~~at the discretion of the director,~~ not to exceed six months.

¹²⁴ **SECTION 49. 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~~ an individual who ~~drives~~ operates 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~~ an individual's operator'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~~ a 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. 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~~ If a period of suspension has been extended under subsection ~~5~~ 6 of section 39-06-17, the court may order the number plates to be impounded ~~in accordance with~~ under 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. 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 50. 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~~ an individual upon a charge of driving a vehicle while the ~~operator's~~ operator's license or driving privileges of the ~~person~~ individual was suspended shall extend the period of that suspension for an additional:
 4. 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~~ individual'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;

¹²⁴ Section 39-06-42 was also amended by section 2 of House Bill No. 1027, chapter 292, and section 1 of Senate Bill No. 2041, chapter 294.

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~~individual'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~~individual'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~~the operator's license 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 ~~aan operator's license or driving privileges were~~was revoked, the director may not issue a new operator's license for an additional period of one year from and after the date the ~~person~~individual would otherwise have been entitled to apply for a new license. Upon a conviction of ~~a person~~an individual 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 ~~56~~ of section 39-06-17.

SECTION 51. AMENDMENT. Section 39-06-44 of the North Dakota Century Code is amended and reenacted as follows:

39-06-44. Permitting unauthorized minor to drive.

~~No person~~An individual may ~~not~~ cause or knowingly permit the ~~person's~~individual's ~~minor~~ child or ward under ~~the age of eighteen years to drive~~operate a motor vehicle upon any highway ~~when such~~if the minor is not authorized ~~hereunder~~under this chapter or in violation of ~~any of the provisions of this chapter.~~

SECTION 52. AMENDMENT. Section 39-06-45 of the North Dakota Century Code is amended and reenacted as follows:

39-06-45. Permitting unauthorized ~~person~~individual to drive.

~~No person~~An individual may ~~not~~ authorize or knowingly permit a motor vehicle owned by the ~~person~~individual or under the ~~person's~~individual's control to be ~~driven~~operated upon any highway by any ~~person~~individual who is not authorized ~~hereunder~~under this chapter or in violation of ~~any of the provisions of this chapter.~~

SECTION 53. AMENDMENT. Section 39-06-46 of the North Dakota Century Code is amended and reenacted as follows:

39-06-46. Renting motor vehicles - License of renter.

~~No~~A person may not rent a motor vehicle to ~~any other person~~ an individual unless the ~~latter person is then duly licensed hereunder~~ individual has an operator's license or, in the case of a nonresident, ~~then duly licensed~~ the individual has an operator's license under the laws of the state or country of the nonresident's residence except a nonresident whose home state or country does not require that an operator be licensed, or unless the renter certifies that the vehicle ~~shall~~ will be driven by a ~~duly licensed driver~~ individual with an operator's license.

SECTION 54. AMENDMENT. Section 39-06-47 of the North Dakota Century Code is amended and reenacted as follows:

39-06-47. Renting motor vehicle - License inspection.

~~No~~A person may not rent a motor vehicle to another individual until the lessor has inspected the operator's ~~or chauffeur's~~ license of the ~~person~~ individual to whom the vehicle is to be rented, or of the ~~person~~ individual by whom the vehicle shall be driven, and compared and verified the signature ~~thereon~~ on the operator's license with the signature of such ~~person~~ the individual written in the lessor's presence.

SECTION 55. AMENDMENT. Section 39-06-48 of the North Dakota Century Code is amended and reenacted as follows:

39-06-48. Renting motor vehicle - Records.

~~Every~~A person renting a motor vehicle to another person shall keep a record of the registration number of the motor vehicle so rented, the name and address of the lessee to whom the vehicle is rented, the number of the license of the lessee or the lessee's certified driver, and the date and place when and where said license was issued. ~~Such~~ This record must be open to inspection by any police officer or ~~officer~~ employee of the director.

SECTION 56. AMENDMENT. Section 39-06-49 of the North Dakota Century Code is amended and reenacted as follows:

39-06-49. Fees collected to be paid into state treasury - Deposit in state highway fund.

1. All money received under ~~the provisions of~~ this chapter must be paid monthly into the highway fund in the state treasury.
2. The fee for:
 - a. An application for a nondriver photo identification card is eight dollars.
 - b. Written testing for an application for an operator's license is five dollars.
 - c. Actual ability testing for an application for an operator's license is five dollars.
 - d. An application for an operator's license is fifteen dollars.
 - e. An application for a motorized bicycle operator's permit is ten dollars.

- f. A substitute operator's license is eight dollars unless the substitute is for erroneous information due to a change in name or address, then the fee is three dollars.
 - g. An operator's license renewal is fifteen dollars.
 - h. Reinstatement after suspension is fifty dollars unless the suspension was the result of a suspension under subsection 4, 5, or 7 of section 39-06-03 or subdivision b of subsection 1 of section 39-06-32, then the fee is twenty-five dollars, or unless the suspension was a result of a violation under section 39-08-01 or chapter 39-20, then the fee is one hundred dollars.
 - i. Reinstatement after revocation is fifty dollars, unless the revocation was imposed for a violation of subsection 6 of section 39-06-17 or section 39-06-31, 39-06-43, or 39-20-04, then the fee is one hundred dollars.
3. Any application for which there is a fee must be accompanied by the proper fee.

SECTION 57. AMENDMENT. Section 39-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-08. Nonmoving violation defined.

For the purposes of section 39-06.1-06, a "nonmoving violation" means:

1. A violation of section 39-04-11, subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, subsection 64 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.
2. A violation, discovered at a time when the vehicle is not actually being operated, of section 39-21-03, 39-21-05, 39-21-13, 39-21-19, 39-21-32, 39-21-37, 39-21-39, or 39-21-44.2, or a violation of any municipal ordinance equivalent to the foregoing sections.

¹²⁵ **SECTION 58. 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, ~~39-06-14.1~~, 39-06-16, 39-08-23, 39-08-24, 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02, section 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 of section 39-24-09, 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.

¹²⁵ Section 39-06.1-09 was also amended by section 2 of House Bill No. 1263, chapter 296, and section 8 of Senate Bill No. 2044, chapter 295.

¹²⁶ **SECTION 59. 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 56 of section 39-06-17 or section 39-06-31. A temporary restricted license may be issued for suspensions ordered under subsection 74 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct.

¹²⁷ **SECTION 60.** A new subsection to section 39-06.2-09 of the North Dakota Century Code is created and enacted as follows:

A class A, B, or C license may not be issued to an individual 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 an individual at least sixteen years of age who satisfactorily completes the appropriate examinations.

SECTION 61. AMENDMENT. Section 39-16-03 of the North Dakota Century Code is amended and reenacted as follows:

39-16-03. Driving records - Not admissible in evidence - Fee.

1. The director upon request shall furnish any person a certified abstract of the operating record of any ~~person~~individual, source document ~~therefor~~for the abstract entry, or record of clearance, subject to this title. The abstract must include the convictions, adjudications, and admissions of commission of traffic offenses of any driver and suspensions, revocations, and restrictions of a ~~person's driving privileges~~an individual's operator's license. Any person, except the subject of the record ~~and~~a law enforcement ~~agency~~agency, a judicial ~~officer~~officer, or another licensing ~~jurisdiction~~jurisdiction functioning in ~~their~~that ~~person's~~ official capacity, requesting the abstract, source documents in aggregate form, or record of clearance shall indicate in writing the reason for the request and shall identify the person ~~or firm~~ for whom or which the request is made and the intended recipient of the record.
2. Copies of abstracts are not admissible as evidence in any civil or criminal trial arising out of a motor vehicle accident. Upon request and subject to the provisions of this title, the director shall furnish an operating record or complete operating record to the subject of the record or to law enforcement or judicial officers.
- ~~2.3.~~ A fee of three dollars must be paid for each abstract of any operating record, operating record, complete operating record, or record of clearance, ~~and a~~A reasonable fee must be paid for each source document, ~~except no.~~The director may not assess a fee may be assessed to a law enforcement agenciesagency, a judicial ~~officer~~officer, or another licensing ~~jurisdiction~~jurisdiction. The director shall send an additional copy of the abstract, source document if requested in aggregate form, or record of clearance to the driver whose record was requested, accompanied by a statement identifying the person making

¹²⁶ Section 39-06.1-11 was also amended by section 3 of House Bill No. 1027, chapter 292, section 6 of House Bill No. 1302, chapter 301, and section 11 of Senate Bill No. 2044, chapter 295.

¹²⁷ Section 39-06.2-09 was also amended by section 3 of Senate Bill No. 2040, chapter 300, and section 7 of Senate Bill No. 2046, chapter 298.

the request, identifying the person ~~or firm~~ for whom or which the request is made, identifying the intended recipient of the record, and providing the reason for the request. ~~No~~An additional copy of the abstract or record of clearance may not be sent to a driver if the request for the record was made by the federal bureau of investigation or the United States central intelligence agency, or ~~their~~ agents, or by any law enforcement agency or judicial officer.

- ~~3-4.~~ A requester may provide the department with a list of names of drivers and may request any source documents from the department relating to the listed drivers for a set time period. The department shall provide this information in hard copy or electronic format. If in order to provide the information by electronic format the department sets up a computer program, the department may charge a requester a reasonable charge for a setup fee. This charge may not exceed the actual cost to set up the computer program. A requester of source documents in aggregate form shall pay the director a reasonable fee for making and mailing to the driver whose record was requested an additional copy of the document as it relates to that driver.

SECTION 62. REPEAL. Sections 39-06-23, 39-06-30, 39-06-50, 39-06-52, and 39-16.1-02 of the North Dakota Century Code are repealed.

Approved March 18, 2013

Filed March 18, 2013

CHAPTER 292

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:

¹²⁸ **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.

¹²⁹ **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.

¹²⁸ Section 39-06-17 was also amended by section 25 of Senate Bill No. 2039, chapter 291.

¹²⁹ Section 39-06-42 was also amended by section 49 of Senate Bill No. 2039, chapter 291, and section 1 of Senate Bill No. 2041, chapter 294.

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.

¹³⁰ **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:

¹³⁰ Section 39-06.1-11 was also amended by section 6 of House Bill No. 1302, chapter 301, section 59 of Senate Bill No. 2039, chapter 291, and section 11 of Senate Bill No. 2044, chapter 295.

- 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.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 293

HOUSE BILL NO. 1187

(Representatives Ruby, Heller, Kasper, Meier, Thoreson)
(Senators Hogue, Larsen, J. Lee, Sitte)

AN ACT to create and enact a new section to chapter 39-06 of the North Dakota Century Code, relating to renewal of operator's licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-06 of the North Dakota Century Code is created and enacted as follows:

Renewal of license held by out-of-state individual.

The director may renew an operator's license issued to an individual who is a resident of this state or to a spouse who is a resident of this state, if the individual or spouse is out of state as a result of the employment of the individual or the other spouse with a governmental entity or a business organization, including the United States armed forces or foreign service. The director shall develop procedures and requirements for a renewal under this section.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 294

SENATE BILL NO. 2041

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact subsections 3 and 4 of section 39-06-42, subsection 3 of section 39-08-01, and subsection 4 of section 39-08-20 of the North Dakota Century Code, relating to impounding and destroying number plates for certain offenses; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³¹ **SECTION 1. AMENDMENT.** Subsections 3 and 4 of section 39-06-42 of the North Dakota Century Code are 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~~destroyed by the sheriff ~~for the duration of the period of suspension or revocation. When~~ if 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~~destroyed under 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. The offender shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the sheriff and notify the department of the order. An offender who does not provide the number plates to the court at the appropriate time is subject to revocation of probation.~~
4. A city may authorize, by ordinance, authorize its municipal judge to order ~~impoundment~~destruction of motor vehicle number plates by the office of the police officer that made the arrest in the manner provided in subsection 3.

¹³² **SECTION 2. AMENDMENT.** Subsection 3 of section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

3. Upon conviction of a second or subsequent offense within five years under this section or equivalent ordinance, the court ~~must~~may order the motor vehicle number plates of all of the motor vehicles owned and operated by the offender at the time of the offense to be ~~impounded for the duration of the period of suspension or revocation of the offender's driving privilege by the licensing authority. The impounded number plates must be sent to the director who must retain them for the period of suspension or revocation, subject to their disposition by the court. The court may make an exception to this~~

¹³¹ Section 39-06-42 was also amended by section 2 of House Bill No. 1027, chapter 292, and section 49 of Senate Bill No. 2039, chapter 291.

¹³² Section 39-08-01 was also amended by section 7 of House Bill No. 1302, chapter 301.

~~subsection, on an individual basis, to avoid undue hardship to an individual who is completely dependent on the motor vehicle for the necessities of life, including a family member of the convicted individual and a coowner of the motor vehicle, but not including the offender destroyed by the office of the police officer that made the arrest. The offender shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the office and notify the department of the order. An offender who does not provide the number plates to the court at the appropriate time is subject to revocation of probation.~~

¹³³ **SECTION 3. AMENDMENT.** Subsection 4 of section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

4. Violation of subsection 1 is a class B misdemeanor and the sentence imposed must include a fine of at least one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within a three-year period must be fined at least three hundred dollars which may not be suspended. For a second or subsequent conviction for a violation of subsection 1 or equivalent ordinance, the court shall ~~impound~~order the motor vehicle number plates of the motor vehicle owned and operated by the person at the time of the violation to be impounded until that person provides proof of insurance and a twenty dollar fee to the department. The person shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the department. A person who does not provide the number plates to the court at the appropriate time is guilty of a class B misdemeanor.

Approved April 11, 2013
Filed April 11, 2013

¹³³ Section 39-08-20 was also amended by section 7 of House Bill No. 1263, chapter 296.

CHAPTER 295

SENATE BILL NO. 2044

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact sections 39-06-35, 39-06.1-01, 39-06.1-02, 39-06.1-03, 39-06.1-04, 39-06.1-06, 39-06.1-07, 39-06.1-09, 39-06.1-10, 39-06.1-10.1, 39-06.1-11, 39-06.1-12, 39-06.1-13, 39-06.1-14, and 39-06.1-15 of the North Dakota Century Code, relating to traffic offense administration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³⁴ **SECTION 1. AMENDMENT.** Section 39-06-35 of the North Dakota Century Code is amended and reenacted as follows:

39-06-35. Period of suspension.

~~When the~~After a period of suspension imposed under this title ceases, the operator's license ~~or driving privilege~~ that has been suspended may not be returned or reinstated, and remains under suspension, until the operator pays to the director a reinstatement fee of fifty dollars, or twenty-five dollars if the suspension was the result of a suspension under subsection 4, 5, or 7 of section 39-06-03 or subsection 2 of section 39-06-32, or one hundred dollars if the suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if applicable, until compliance with subsection ~~3-14~~ of section 39-06.1-10. ~~Upon~~The director shall return the operator's license upon payment of the reinstatement fee ~~the license must be returned to the operator~~. If payment of the reinstatement fee is submitted with a check or a credit or debit card and the operator stops payment on the transaction, the suspension will be reimposed until proper payment has been made to the director. A reinstatement fee is not required for a license to be returned to the operator if the return of the license is due to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter 39-06, 39-06.1, or 39-20.

SECTION 2. AMENDMENT. Section 39-06.1-01 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-01. Definitions.

As used in this title:

1. "Adjudication" and "admission" means an official determination, in the manner provided by law, that a traffic violation has been committed by a named driver.
2. "Equivalent ordinance" ~~or "equivalent ordinances"~~ means an ordinance of a city, state, or other jurisdiction ~~ordinances which are~~ comparable to the cited statute, and ~~defined~~defines essentially the same offense, ~~despite the fact that even if the language of the ordinance may differ,~~differ or differing procedural points or methods of proof ~~may be provided~~differ.

¹³⁴ Section 39-06-35 was also amended by section 43 of Senate Bill No. 2039, chapter 291.

3. ~~"Halting officer" means a law enforcement officer charged with and acting under the officer's authority to halt and, if appropriate, arrest persons suspected or known to be violating statutes or ordinances regulating the operation or equipment of vehicles, or the regulation of traffic.~~
4. ~~"Licensing authority" means the state agency authorized to issue operators' licenses.~~
5. ~~"Point" or "points" refers to~~ "Official" means a municipal judge or a magistrate or other qualified individual appointed by the presiding judge of the judicial district to serve for all or part of the judicial district.
4. "Points" means the number of demerits assigned to particular types of traffic violations, ~~the accumulation of which will, at a stated level, result in suspension of the offender's operator's license.~~

SECTION 3. AMENDMENT. Section 39-06.1-02 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-02. Traffic violations noncriminal - Exceptions - Procedures.

1. ~~Any person~~An individual cited, in accordance with sections 39-07-07 and 39-07-08, for a traffic violation under state law or municipal ordinance, other than an offense listed in section 39-06.1-05, is deemed to be charged with a noncriminal offense.
 - a. ~~The person~~individual may appear before the designated official and pay the statutory fee for the violation charged at or before the time scheduled for a hearing.
 - b. If the ~~person~~individual has posted bond ~~in person or by mail~~, the ~~person~~individual may forfeit bond by not appearing at the designated time.
2. If the ~~person~~individual is cited for a traffic violation under state law and posts bond by mail, the bond must be submitted within fourteen days of the date of the citation. ~~When posting bond by mail, and~~ the ~~person~~individual cited shall indicate on the envelope or citation whether a hearing is requested. If the ~~person~~individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the violation admitted. If the ~~person~~individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the ~~person~~individual requesting the hearing notifying the ~~person~~individual of the date of the hearing before the designated official in accordance with section 39-06.1-03.
3. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the ~~person's~~individual's request, the ~~person~~individual may make a statement in explanation of the ~~person's~~individual's action. The official may at that time waive, reduce, or suspend the statutory fee or bond, or both. If the ~~person~~individual cited follows the foregoing procedures, the ~~person~~individual is deemed to have admitted the violation and to have waived the right to a hearing on the issue of commission of the violation.
4. The bond required to secure appearance must be identical to the statutory fee established by section 39-06.1-06.

5. Within ten days after forfeiture of bond or payment of the statutory fee, the official having jurisdiction over the violation shall certify to the ~~licensing authority~~director:
1. a. Admission of the violation; and
2. b. In speeding violations, whether the speed charged was in excess of the lawful speed limit by more than nine miles [14.48 kilometers] per hour and the miles [kilometers] per hour by which the speed limit was exceeded.

This

6. ~~Under this section does not allow a halting a citing police officer to may not receive the statutory fee or bond, unless the officer is otherwise authorized by law to do so.~~

SECTION 4. AMENDMENT. Section 39-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-03. Administrative hearing - Procedures - Appeals - Stay orders.

1. ~~A person~~An individual cited for a traffic violation, other than an offense listed in section 39-06.1-05, who does not follow one of the procedures set forth in section 39-06.1-02, may request a hearing on the issue of commission of the charged violation ~~charged~~. The hearing must be held at the time scheduled in the citation, at the time scheduled in response to the ~~person's~~individual's request, or at some future time, not to exceed ninety days later, set at that first appearance.
2. At the time of a request for a hearing on the issue of commission of the violation, the ~~person~~individual charged shall deposit with the official having jurisdiction an appearance bond equal to the statutory fee for the charged violation ~~charged~~.
3. If ~~a person~~an individual cited for a traffic violation, other than an offense listed in section 39-06.1-05, has requested a hearing on the issue of the commission of the charged violation ~~charged~~ and appears at the time scheduled for the hearing, and the ~~state or city, as the case may be,~~prosecution does not appear or is not ready to prove the commission of a charged violation at the hearing, the official shall dismiss the charge.
4. If the official finds that the ~~person~~individual had committed the traffic violation, the official shall notify the ~~licensing authority~~director of that fact, and whether the ~~person~~individual was driving more than nine miles [14.48 kilometers] per hour in excess of the lawful limit, stating specifically the miles [kilometers] per hour in excess of the lawful limit, if charged with a speeding violation, within ten days of the date of the hearing. The fact that ~~a person~~an individual has admitted a violation, or has, in any proceeding, been found to have committed a violation, may not be referred to in any way, nor be admissible as evidence in any court, civil, equity, or criminal, except in an action or proceeding involving that ~~person's driving~~individual's operator's license or privilege.
5. a. ~~A person~~An individual may not appeal a finding from a district judge or magistrate that the ~~person~~individual committed the violation. If ~~a person~~an individual is aggrieved by a finding in the municipal court that the ~~person~~individual committed the violation, the ~~person~~individual may, without

payment of a filing fee, appeal that finding to the district court for trial anew. If, after trial in the appellate court, the ~~person~~individual is again found to have committed the violation, there ~~may be~~ no further appeal. Notice of appeal under this subsection must be given within thirty days after a finding of commission of a violation is entered by the official. Oral notice of appeal may be given to the official at the time that the official adjudges that a violation has been committed. Otherwise, notice of appeal must be in writing and filed with the official, and a copy of the notice must be served upon the prosecuting attorney. An appeal taken under this subsection may not operate to stay the reporting requirement of subsection 4, nor to stay appropriate action by the ~~licensing authority~~director upon receipt of that report.

b. The appellate court upon application by the appellant may:

- (1) Order a stay of any action by the ~~licensing authority~~director during pendency of the appeal, but not to exceed a period of one hundred twenty days;
- (2) Order a stay and that the appellant be issued a temporary restricted driving certificate by the ~~licensing authority~~director to be effective for no more than one hundred twenty days; or
- (3) Deny the application.

An application for a stay or temporary certificate under this subdivision must be accompanied by a certified copy of the appellant's driving record, for the furnishing of which the ~~licensing authority~~director may charge a fee of three dollars. Any order granting a stay or a temporary certificate must be immediately forwarded ~~forthwith~~ by the clerk of court to the ~~licensing authority~~director, ~~which~~who immediately shall issue a temporary certificate in accordance with the order in the manner provided by law. A court may not make a determination on an application under this subdivision without notice to the appropriate prosecuting attorney. ~~A person~~An individual who violates or exceeds the restrictions contained in any temporary restricted driving certificate issued ~~pursuant to~~under this subdivision is guilty of a traffic violation and must be assessed a fee of twenty dollars.

c. If the ~~person~~individual charged is found not to have committed the violation by the appellate court, the clerk of court shall report that fact to the ~~licensing authority~~director immediately. Unless the appropriate state's attorney consents to prosecute the appeal, if an appeal under this subsection is from a violation of a city ordinance, the city attorney for the city wherein the alleged violation occurred shall prosecute the appeal. In all other cases, the appropriate state's attorney shall prosecute the appeal.

6. The state or the city, as ~~the case may be~~appropriate, must prove the commission of a charged violation at the hearing or appeal under this section by a fair preponderance of the evidence. Upon an appeal under subsection 5, the court and parties shall follow, to the extent applicable, the North Dakota Rules of Civil Procedure. If on the appeal from the finding of the official the finding is affirmed, costs may be assessed at the discretion of the trial judge.
7. ~~As used in sections 39-06.1-02, 39-06.1-03, and 39-06.1-04, the word "official"~~ means a municipal judge, or a magistrate or other qualified person appointed

~~by the presiding judge of the judicial district, to serve as such official for all or a specified part of the judicial district.~~

SECTION 5. AMENDMENT. Section 39-06.1-04 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-04. Failure to appear, pay statutory fee, post bond - Procedure - Penalty.

If ~~a person~~ an individual fails to choose one of the methods of proceeding set forth in section 39-06.1-02 or 39-06.1-03, ~~the person must be individual~~ is deemed to have admitted to commission of the ~~charged~~ violation charged, and the official having jurisdiction shall report ~~such fact~~ the admission to the licensing authority ~~director~~ within ten days after the date set for the hearing. Failure to appear at the time designated, after signing a promise to appear, if signing is required by law, or failure to appear without paying the statutory fee or posting and forfeiting bond is a class B misdemeanor. Failure to appear without just cause at the hearing ~~must also be~~ is deemed an admission of commission of the ~~charged~~ violation charged.

¹³⁵ **SECTION 6. AMENDMENT.** Section 39-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-06. Amount of statutory fees.

The fees required for a noncriminal disposition ~~pursuant to either under~~ section 39-06.1-02 or 39-06.1-03 must be as follows:

1. For a nonmoving violation as defined in section 39-06.1-08, a fee of ~~any amount not to exceed twenty dollars except for a violation of any traffic parking regulation on any state charitable or penal institution property or on the state capitol grounds, a fee in the amount of five dollars, excluding a violation of subsection 10 of section 39-01-15.~~
2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for:
 - a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, 39-10-42, 39-10-46, or 39-10-46.1, a fee of fifty dollars.
 - b. A violation of section 39-10-05 involving failure to yield to a pedestrian or subsection 1 of section 39-10-28, a fee of fifty dollars.
 - c. A violation of section 39-21-41.2, a fee of twenty-five dollars.
 - d. A violation of subsection 1 of section 39-12-02 or section 39-08-23, a fee of one hundred dollars.
 - e. A violation of subdivision d of subsection 1 of section 39-12-04, a fee of one hundred dollars.
 - f. A violation of subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, a fee of one hundred dollars.

¹³⁵ Section 39-06.1-06 was also amended by section 1 of House Bill No. 1321, chapter 297.

- g. A violation of subsection 2 of section 39-10-21.1, a fee of two hundred fifty dollars.
 - h. A violation of section 39-10-59, a fee of one hundred dollars.
 - i. A violation of section 39-09-01, a fee of thirty dollars.
 - j. A violation of section 39-09-01.1, a fee of thirty dollars.
3. For a violation of section 39-21-44 or a rule adopted under that section, a fee of two hundred fifty dollars.
 4. Except as provided in subsections 7 and 11, for a violation of section 39-09-02, or an equivalent ordinance, a fee established as follows:

Miles per hour over lawful speed limit	Fee
1 - 5	\$ 5
6 - 10	\$ 5 plus \$1/each mph over 5 mph over limit
11 - 15	\$ 10 plus \$1/each mph over 10 mph over limit
16 - 20	\$ 15 plus \$2/each mph over 15 mph over limit
21 - 25	\$ 25 plus \$3/each mph over 20 mph over limit
26 - 35	\$ 40 plus \$3/each mph over 25 mph over limit
36 - 45	\$ 70 plus \$3/each mph over 35 mph over limit
46 +	\$100 plus \$5/each mph over 45 mph over limit

4. ~~For a violation of section 39-09-01, or an ordinance defining careless driving, a fee of thirty dollars.~~
5. ~~For a violation of section 39-09-01.1, or an ordinance defining care required in driving, a fee of not less than ten dollars nor more than thirty dollars.~~
6. ~~For a violation of any traffic parking regulations, except a violation of subsection 10 of section 39-01-15, on any state charitable or penal institution property or on the state capitol grounds, a fee in the amount of five dollars.~~
- 7.5. On a highway on which the speed limit is a speed higher than fifty-five miles [88.51 kilometers] an hour, for a violation of section 39-09-02, or an equivalent ordinance, a fee established as follows:

Miles per hour over lawful speed limit	Fee
1 - 10	\$2/each mph over limit
11 +	\$20 plus \$5/each mph over 10 mph over limit

8. ~~For a violation of section 39-21-41.4, a fee not to exceed twenty dollars.~~
9. ~~For a violation of section 39-21-44 or a rule adopted under that section, a fee of two hundred fifty dollars.~~
- 10.6. For a violation of subsection 3 of section 39-21-46, a fee established as follows:
 - a. Driving more than eleven hours since the last ten hours off duty, driving after fourteen hours on duty since the last ten hours off duty, driving after sixty hours on duty in seven days or seventy hours in eight days, no record

of duty status or log book in possession, failing to retain previous seven-day record of duty status or log book, or operating a vehicle with four to six out-of-service defects, one hundred dollars;

- b. False record of duty status or log book or operating a vehicle with seven to nine out-of-service defects, two hundred fifty dollars;
- c. Operating a vehicle after driver placed out of service, operating a vehicle with ten or more out-of-service defects, or operating a vehicle that has been placed out of service prior to its repair, five hundred dollars; and
- d. All other violations of motor carrier safety rules adopted under subsection 3 of section 39-21-46, fifty dollars.

~~14-7.~~ On a highway on which the speed limit is posted in excess of sixty-five miles [104.61 kilometers] an hour, for a violation of section 39-09-02, or equivalent ordinance, a fee of five dollars for each mile per hour over the limit.

~~14-8.~~ For a violation of a school zone speed limit under subdivision b of subsection 1 of section 39-09-02, or, notwithstanding subsection 2 of section 40-05-06 or section 40-05.1-06, of an ordinance in a city or home rule city for a violation of a speed limit dependent upon being on or near a school, fees for a noncriminal disposition area fee of forty dollars for one through ten miles per hour over the posted speed; and forty dollars, plus one dollar for each additional mile per hour over ten miles per hour over the limit unless a greater fee would be applicable under this section.

~~14-9.~~ For a violation of a highway construction zone speed limit under subsection 2 of section 39-09-02, a fee of eighty dollars for one through ten miles per hour over the posted speed; and eighty dollars plus two dollars for each mile per hour over ten miles per hour over the limit, unless a greater fee would be applicable under this section. The fee in this subsection does not apply to a highway construction zone unless individuals engaged in construction are present at the time and place of the violation and the posted speed limit sign states "Minimum Fee \$80".

SECTION 7. AMENDMENT. Section 39-06.1-07 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-07. Notification to offenders - Duties of licensing authority director.

The licensing authority ~~director~~ shall prepare notification forms and a temporary operator's permit as ~~provided in~~ section 39-20-03.1 or 39-20-03.2 to be delivered to ~~persons charged along~~ the charged individual with the uniform traffic summons and complaint as ~~provided in~~ section 29-05-31. The notification forms must contain language, approved by the attorney general, informing ~~persons an~~ individual charged with a traffic violations violation, other than offenses listed in section 39-06.1-05, of the procedures available to ~~them~~ that individual under sections 39-06.1-02 and 39-06.1-03 and informing ~~persons an individual~~ who refuses ~~refuses~~ a chemical test or onsite screening test under chapter 39-20 or who, on taking a chemical test, ~~are~~ is found to be in violation of subdivision a of subsection 1 of section 39-08-01, of the procedures available under chapter 39-20. The notification must ~~also~~ contain a schedule of points to be charged against ~~a person's an individual's~~ driving record or other operator's license penalties as provided by law and a schedule of statutory fees and bond amounts as determined in accordance with ~~sections 39-06.1-06 and 39-06.1-02~~ this chapter. A notification form separate from the uniform

traffic summons and complaint may be delivered to a ~~person~~ individual charged with a violation of subsection 3 of section 39-21-46.

¹³⁶ **SECTION 8. 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, 39-08-23, 39-08-24, ~~39-09-01, 39-09-01.1, 39-09-04.1, or 39-09-09~~, subsection 1 of section 39-12-02, section 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.

¹³⁷ **SECTION 9. AMENDMENT.** Section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-10. Entries against driving record - ~~Licensing authority~~ Director duties - Hearings - Demerit schedule - Suspension.

1. ~~When~~ If a report of a conviction of a traffic offense, or admission or adjudication of a traffic violation is received by the ~~licensing authority~~ director, the ~~licensing authority~~ director shall proceed to enter the proper number of points on the licensee's driving record, unless the number points assigned to the violation are two or less. If the number points assigned to the violation are two or less, the violation and points may not be entered on the driving record but must be recorded separately, and the separate record ~~shall~~ is not be available to the public. Points from ~~violations~~ a violation in which the assigned number points are two or less ~~shall be~~ are considered a part of the driving record ~~only for purposes~~ the sole purpose of point reduction ~~pursuant to~~ under section 39-06.1-13 and for purposes of license suspension. ~~When~~ If the driving record shows that the licensee has an accumulated ~~point~~ total of twelve or more points, assigned on the basis of the schedule contained in subsection 3, the ~~authority~~ director shall notify the licensee of ~~its~~ the director's intention to suspend the operator's license ~~according to the provisions of~~ under section 39-06-33. For the purposes of this chapter, the ~~licensing authority~~ may ~~may~~ director also may receive and act on reports of traffic offense convictions forwarded by federal, military, and tribal courts in this state.
2. If the ~~licensing authority~~ director confirms, after hearing or opportunity for hearing, that the licensee's driving record has an accumulated point total of twelve or more points, the ~~licensing authority~~ director shall suspend the licensee's operator's license according to the following schedule:

¹³⁶ Section 39-06.1-09 was also amended by section 2 of House Bill No. 1263, chapter 296, and section 58 of Senate Bill No. 2039, chapter 291.

¹³⁷ Section 39-06.1-10 was also amended by section 3 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1263, chapter 296, section 5 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1302, chapter 301, and section 5 of House Bill No. 1302, chapter 301.

Accumulated Point Total:	Period of Suspension:
a. Twelve	7 days
b. Thirteen and above	7 days for each point over eleven

Surrender and return of licenses ~~a license~~ suspended pursuant to ~~under~~ this section ~~must be~~ governed by the ~~provisions of~~ section 39-06-37.

3. Points must be assigned and accumulated on the basis of the following schedule:

a. Noncriminal Violations

Noncriminal Adjudication or Admission of:	Points Assigned:
(1) Overtime and double parking in violation of city ordinances	0 points
(2) Failure to display license plates	1 point
(3) Permitting unauthorized minor to drive	2 points
(4) Permitting unauthorized person <u>individual</u> to drive	2 points
(5) Unlawful stopping, standing, or parking on open highway in violation of section 39-10-47	2 points
(6) Unlawful parking in prohibited place	1 point
(7) Leaving motor vehicle improperly unattended on an open highway	1 point
(8) Opening or leaving motor vehicle doors open when unsafe to do so	1 point
(9) Except as provided in sections 39-21-44 and 39-21-45.1, knowingly driving with defective, nonexistent, or unlawful equipment in violation of section 39-21-46, or equivalent ordinances	2 points
(10) Careless driving in violation of section 39-09-01, or equivalent ordinance	6 points
(11) Violating or exceeding restrictions contained in a restricted certificate issued pursuant to <u>under</u> section 39-06.1-03	4 points
(12) Racing or drag racing motor vehicles in violation of section 39-08-03.1, or equivalent ordinance	10 points
(13) Exhibition driving in violation of section 39-08-03.1, or equivalent ordinance	3 points

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|---|----------|
| (14) Failing to yield right of way in violation of section 39-10-20, 39-10-22 through 39-10-26, 39-10-28, 39-10-33.3, 39-10-44, or 39-10-72, or equivalent ordinances | 2 points |
| (15) Disobeying an official traffic-control device in violation of section 39-10-04, 39-10-05, or 39-10-07, or equivalent ordinances | 2 points |
| (16) Driving on wrong side of road in violation of section 39-10-08, 39-10-14, or 39-10-16, or equivalent ordinances | 2 points |
| (17) Failing to dim headlights in violation of section 39-21-21, or equivalent ordinance | 1 point |
| (18) Failing to stop at railroad crossing in violation of section 39-10-41 or 39-10-42, or equivalent ordinances | 3 points |
| (19) Knowingly driving with defective brakes in violation of section 39-21-32 or 39-21-33, or equivalent ordinances | 2 points |
| (20) Disregarding the lawful commands of a police officer in violation of section 39-10-02, or equivalent ordinance | 2 points |
| (21) Overtaking where prohibited or in an unsafe manner in violation of section 39-10-11, 39-10-12, 39-10-13, or 39-10-15, or equivalent ordinances | 2 points |
| (22) Overtaking and passing a schoolbus in violation of section 39-10-46, or equivalent ordinance | 6 points |
| (23) Operating a motor vehicle without a license in violation of section 39-06-01, or equivalent ordinance | 4 points |
| (24) Improperly operating or unlawfully carrying passengers or packages on a motorcycle in violation of section 39-10.2-02, or equivalent ordinance | 2 points |
| (25) Improperly operating a motorcycle in laned traffic in violation of section 39-10.2-03, or equivalent ordinance | 2 points |
| (26) Clinging to other vehicles while riding a motorcycle in violation of section 39-10.2-04, or equivalent ordinance | 4 points |
| (27) Carrying a passenger on a motorcycle not equipped with passenger footrests in violation of section 39-10.2-05, or equivalent ordinance | 2 points |
| (28) Operating a motorcycle without protective headgear in violation of subsection 1 of section 39-10.2-06, or equivalent ordinance | 2 points |
| (29) Failing to use the care required in section 39-09-01.1, or equivalent ordinance | 2 points |

- (30) Except as provided in paragraph 33, operating a motor vehicle in excess of speed limit in violation of section 39-09-02, or equivalent ordinance
- | | |
|------------------------|-----------|
| 6 - 10 mph over limit | 0 points |
| 11 - 15 mph over limit | 1 point |
| 16 - 20 mph over limit | 3 points |
| 21 - 25 mph over limit | 5 points |
| 26 - 35 mph over limit | 9 points |
| 36 - 45 mph over limit | 12 points |
| 46 + mph over limit | 15 points |
- (31) Driving in violation of section 39-08-18 2 points
- (32) Driving in violation of section 39-08-09 6 points
- (33) On a highway on which the speed limit is posted in excess of sixty-five miles [104.61 kilometers] an hour, operating a motor vehicle in excess of the speed limit in violation of section 39-09-02, or equivalent ordinance
- | Miles per hour over lawful speed limit | Points |
|--|--------|
| 1 - 5 | 0 |
| 6 - 10 | 1 |
| 11 - 15 | 3 |
| 16 - 20 | 5 |
| 21 - 25 | 7 |
| 26 - 30 | 10 |
| 31 - 35 | 12 |
| 36 + | 15 |
- (34) Failing to have a minor in a child restraint system or seatbelt in violation of section 39-21-41.2 1 point
- (35) Failure or refusal to comply with rules of the superintendent of the highway patrol in violation of subsection 3 of section 39-21-46 0 points
- (36) Violation of section 39-21-44 or any rule adopted under that section 2 points

b. Criminal Violations

- | Conviction of: | Points Assigned: |
|--|------------------|
| (1) Reckless driving in violation of section 39-08-03, or equivalent ordinance | 8 points |
| (2) Aggravated reckless driving in violation of section 39-08-03, or equivalent ordinance | 12 points |
| (3) Leaving the scene of an accident involving property damage in violation of section 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances | 14 points |

- | | |
|--|-----------|
| (4) Leaving the scene of an accident involving personal injury or death in violation of section 39-08-04, or equivalent ordinance | 18 points |
| (5) Violating restrictions in a restricted license issued under section 39-06-17 and relating to the use of eyeglasses or contact lenses while driving | 3 points |
| (6) Violating any restrictions other than those listed in paragraph 5, contained in a restricted license issued under section 39-06-17 or 39-06.1-11 | 4 points |
| (7) Except as provided in paragraph 9, operating a motor vehicle without liability insurance, in violation of section 39-08-20 | 6 points |
| (8) Knowingly driving a modified motor vehicle in violation of section 39-21-45.1, or equivalent ordinance | 2 points |
| (9) Operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the violation was discovered as the result of investigation of an accident in which the driver is the owner | 14 points |
| (10) Except as provided in paragraph 9 of subdivision a, knowingly operating an unsafe vehicle in violation of section 39-21-46, or equivalent ordinance | 2 points |
| (11) Fleeing in a motor vehicle from a peace officer in violation of section 39-10-71, or equivalent ordinance | 24 points |
| (12) Except as provided in paragraph 9, operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the driving record shows that the licensee has within the eighteen months preceding the violation previously violated section 39-08-20 | 12 points |
| (13) Causing an accident with an authorized emergency vehicle or a vehicle operated by or under the control of the director used for maintaining the state highway system in violation of subsection 5 of section 39-10-26, or equivalent ordinance | 2 points |
| (14) Driving in violation of the conditions of an instruction permit | 2 points |

- 3-1-4. a. If the director is informed by a court that a person an individual has been convicted of violating section 39-08-01, or equivalent ordinance, the director, subject to the offender's opportunity for hearing under subsection 1, shall suspend that ~~person's driving privileges~~ individual's operator's license until the offender furnishes to the director the written statement of the counselor or instructor of an appropriate licensed addiction treatment program that the offender does not require either an education or treatment program or that the offender has physically attended the prescribed program and has complied with the attendance

- rules. The director shall send notice to the offender informing the offender of the provisions of this subsection.
- b. If within the seven years preceding the most recent violation of section 39-08-01, or equivalent ordinance, the offender has previously violated section 39-08-01, or equivalent ordinance, at least three times, the driving privileges shall ~~must~~ be suspended and ~~can~~ may be restored only after that ~~person~~ individual has completed addiction treatment through an appropriate licensed addiction treatment program and has had no alcohol-related or drug-related offense for two consecutive years after completion of treatment.
- ~~4-5.~~ If judicial disposition of a traffic violation includes an order or recommendation of suspension or revocation of an operator's license, the suspension or revocation runs concurrently with any suspension ordered under this section. After a conviction of a ~~person~~ individual for violating section 39-08-01, the director shall, in suspending the ~~person's~~ individual's operator's license, shall give credit for the time in which license suspension or revocation has been or is being imposed under chapter 39-20 in connection with the same offense.
- ~~5-6.~~ A suspension must be deemed to have commenced twenty days after the order of suspension is delivered to the licensee at the licensee's address of record in the department. Constructive delivery under this section must be considered as occurring seventy-two hours after proper deposit in the mails.
- ~~6-7.~~ Points assigned pursuant to ~~under~~ this section must be recorded against an operator's driving record regardless of whether the operator has ever had an operator's license issued in this state, and the ~~licensing authority~~ director shall maintain records on all violators regardless of ~~whether they are licensed~~ ~~licensee~~. Upon the assignment of twelve or more points, any unlicensed operator must be deemed to be driving under suspension if the operator has never had an operator's license or if the operator has failed to renew the operator's license.
- ~~7-8.~~ The period of suspension imposed for a violation of section 39-08-01 or equivalent ordinance is:
- a. Ninety-one days if the operator's record shows the ~~person~~ individual has not violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation.
- b. One hundred eighty days if the operator's record shows the ~~person~~ individual has not violated section 39-08-01 or equivalent ordinance within five years preceding the last violation and the violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.
- c. Three hundred sixty-five days if the operator's record shows the ~~person~~ individual has once violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation.
- d. Two years if the operator's record shows the ~~person~~ individual has at least once violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation and the violation was for an alcohol

- concentration of at least eighteen one-hundredths of one percent by weight.
- e. Two years if the operator's record shows the ~~person~~individual has at least twice violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation.
 - f. Three years if the operator's record shows the ~~person~~individual has at least twice violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation and the violation is for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.

SECTION 10. AMENDMENT. Section 39-06.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-10.1. Alternative disposition - Driver training course - Exceptions.

~~A person~~

1. An individual issued a summons or notice to appear under section 39-07-07 may appear before the court and elect to attend a driver training course approved by the director in lieu of entry of points on the licensee's driving record. ~~A person~~An individual who elects to attend the course must so notify the court at the time of posting the bond, which is forfeited even though an election is made under this section. The ~~person~~individual who makes the election shall pay the driver training course fee to the driver training course sponsor. ~~When a person~~If an individual elects to attend the course, the point penalty of five points or fewer ~~as provided~~ for the violation by section 39-06.1-10 may not be assessed; ~~provided, that if proof of completion of the course is presented to the department within thirty days after the~~ provided, that if proof of completion of the course is presented to the department within thirty days after the ~~person~~individual notifies the court of the election. ~~A person~~An individual may not make an election under this section if:
 1. a. That ~~person~~individual has made an election under this section within the twelve months preceding the date of issuance of the summons or notice to appear;
 2. b. The offense is assigned six or more points; or
 3. c. The offense is an offense listed in section 39-06.1-05.

~~A person~~

2. An individual making an election under this section forfeits any point reduction option under section 39-06.1-13.

¹³⁸ **SECTION 11. 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.

¹³⁸ Section 39-06.1-11 was also amended by section 3 of House Bill No. 1027, chapter 292, section 6 of House Bill No. 1302, chapter 301, and section 59 of Senate Bill No. 2039, chapter 291.

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 before the date of the filing of a written application that must be accompanied by a report from an appropriate licensed addiction treatment program or 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 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.
- 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.
- 4-6. A temporary restricted license issued under this section is solely for the use of a motor vehicle during the licensee's normal working hours and may contain any other restrictions authorized by section 39-06-17. 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 operator's~~ license is not subject to an unrelated suspension or revocation, the director shall issue a temporary restricted ~~driver's~~ permit license 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 license be revoked and take possession of the temporary restricted driver's permit license.~~ 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 license. Revocation of a temporary restricted driver's permit license 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.

SECTION 12. AMENDMENT. Section 39-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-12. Completion of suspension - Reduction of point total.

WhenIf a licensee completes a period of suspension ordered pursuant to under section 39-06.1-10 or as ordered or recommended by a court of competent jurisdiction, the licensing authoritydirector shall reduce the point total shown on the licensee's driving record to eleven points. Thereafter, A suspension must be ordered whenif that licensee's point total again reaches twelve or more points.

SECTION 13. AMENDMENT. Section 39-06.1-13 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-13. Reduction of point total - Other methods.

1. The licensing authoritydirector shall reduce the point total shown on any licensee's driving record by one point for each three-month period during which no points are not recorded against the licensee's driving record for a moving violation or a violation listed in paragraphs 12 through 16 of subdivision a of subsection 3 of section 39-06.1-10. The three-month period must be calculated from the date of entry of the last points against that licensee's driving record.
2. The point total shown on a licensee's driving record must, during any twelve-month period, be reduced by three points when the licensee mails or delivers a certificate to the licensing authoritydirector indicating successful completion of instruction in a driver training course approved by the licensing authoritydirector. Successful completion of instruction must be certified to by the sponsoring agency or organization of the driver training course. The reduction in points authorized byunder this subsection must only be solely from a point total accumulated prior tobefore completion of the necessary hours of driver training instruction, and may not exceed nine points during any three-year period commencing on the date of entry of the last points against the person'sindividual's driving record. If on the date the licensing authoritydirector receives the certificate of completion of the driver training course from the licensee, that licensee's driving record contains twelve or more points or, as a minor, the licensee's driving record contains six points or more, the point reduction authorized byunder this subsection must be applied only after serving the period of suspension or cancellation required by the number of points then on the driver'slicensee's record has been served.

SECTION 14. AMENDMENT. Section 39-06.1-14 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-14. Failure to surrender license.

The director shall extend the period of revocation in all cases that involve a time period, within this title, whenif the personindividual whose operator's license or permit has been revoked fails to surrender suchthe operator's license or permit within forty-eight hours after delivery of the order of revocation. SuchThe period of

revocation must be extended by one day for each day ~~such person~~ the individual fails to surrender ~~such~~ the operator's license. Delivery of the order ~~must be~~ is deemed to have occurred seventy-two hours after the order is mailed by regular mail to the address of record in the department under section 39-06-20.

SECTION 15. AMENDMENT. Section 39-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-15. Diplomatic immunities and privileges.

1. This section applies only to an individual who displays a ~~driver's~~ an operator's license issued by the United States department of state to a ~~law enforcement~~ police officer or who otherwise claims immunities or privileges under chapter 6 of title 22 of the United States Code with respect to the individual's violation of any law or ordinance that relates to the operation of a motor vehicle.
2. If a driver who is subject to this section is stopped by a ~~law enforcement~~ police officer who has probable cause to believe that the driver has committed a violation, the ~~law enforcement~~ police officer shall record all relevant information from any ~~driver's~~ operator's license or identification card, including a ~~driver's~~ an operator's license or identification card issued by the United States department of state; as soon as practicable contact the United States department of state office in order to verify the driver's status and immunity, if any; and forward the following to the bureau of diplomatic security office of foreign missions of the United States department of state:
 - a. A vehicle accident report, if the driver was involved in a vehicle accident;
 - b. A copy of the citation or other charging document if a citation or other charging document was issued to the driver; and
 - c. A written report of the incident if a citation or other charging document was not issued to the driver.
3. This section does not prohibit or limit the application of any law to a criminal or motor vehicle violation by an individual who has or claims immunities or privileges under title 22 of the United States Code.

Approved March 18, 2013

Filed March 18, 2013

CHAPTER 296

HOUSE BILL NO. 1263

(Representatives Gruchalla, Keiser, Kempenich, Larson, Silbernagel, Mock)
(Senators G. Lee, J. Lee, Sinner)

AN ACT to create and enact paragraphs 37, 38, and 39 to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to demerit points for driving without liability insurance; and to amend and reenact sections 39-06.1-05 and 39-06.1-09, subdivision b of subsection 3 of section 39-06.1-10, and section 39-08-20 of the North Dakota Century Code, relating to procedures and demerit points for driving without liability insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-05. Offenses excepted.

The procedures authorized under sections 39-06.1-02 and 39-06.1-03 may not be utilized by a person charged with one of the following offenses:

1. Driving or being in actual physical control of a vehicle in violation of section 39-08-01, or an equivalent ordinance.
2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or an equivalent ordinance.
3. A violation of chapter 12.1-16 resulting from the operation of a motor vehicle.
4. Leaving the scene of an accident in violation of section 39-08-04, 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances.
5. Driving while license or driving privilege is suspended or revoked in violation of section 39-06-42, or an equivalent ordinance.
6. Violating subdivision b or c of subsection 5 of section 39-24-09.
7. Operating a modified motor vehicle in violation of section 39-21-45.1.
8. ~~Driving without liability insurance in violation of section 39-08-20.~~
9. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.
- ~~10.9.~~ Causing an accident with an authorized emergency vehicle or a vehicle operated by or under the control of the director used for maintaining the state highway system in violation of subsection 5 of section 39-10-26.

139 **SECTION 2. 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, 39-08-20, 39-08-23, 39-08-24, 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02, section 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.

140 **SECTION 3.** Paragraph 37 to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

(37) Except as provided in paragraph 39, operating a motor vehicle without liability insurance, in violation of section 39-08-20 6 points

141 **SECTION 4.** Paragraph 38 to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

(38) Except as provided in paragraph 39, operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the driving record shows that the licensee has within the eighteen months preceding the violation previously violated section 39-08-20 12 points

142 **SECTION 5.** Paragraph 39 to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

(39) Operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the violation was discovered as the result of investigation of an accident in which the driver is the owner 14 points

139 Section 39-06.1-09 was also amended by section 58 of Senate Bill No. 2039, chapter 291, and section 8 of Senate Bill No. 2044, chapter 295.

140 Section 39-06.1-10 was also amended by section 4 of House Bill No. 1263, chapter 296, section 5 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1302, chapter 301, section 5 of House Bill No. 1302, chapter 301, and section 9 of Senate Bill No. 2044, chapter 295.

141 Section 39-06.1-10 was also amended by section 3 of House Bill No. 1263, chapter 296, section 5 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1302, chapter 301, section 5 of House Bill No. 1302, chapter 301, and section 9 of Senate Bill No. 2044, chapter 295.

142 Section 39-06.1-10 was also amended by section 3 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1263, section 5 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1302, chapter 301, section 5 of House Bill No. 1302, chapter 301, and section 9 of Senate Bill No. 2044, chapter 295.

SECTION 6. AMENDMENT. Subdivision b of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

b. Criminal Violations

Conviction of:	Points Assigned:
(1) Reckless driving in violation of section 39-08-03, or equivalent ordinance	8 points
(2) Aggravated reckless driving in violation of section 39-08-03, or equivalent ordinance	12 points
(3) Leaving the scene of an accident involving property damage in violation of section 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances	14 points
(4) Leaving the scene of an accident involving personal injury or death in violation of section 39-08-04, or equivalent ordinance	18 points
(5) Violating restrictions in a restricted license issued under section 39-06-17 and relating to the use of eyeglasses or contact lenses while driving	3 points
(6) Violating any restrictions other than those listed in paragraph 5, contained in a restricted license issued under section 39-06-17 or 39-06.1-11	4 points
(7) Except as provided in paragraph 9, operating a motor vehicle without liability insurance, in violation of section 39-08-20	6 points
(8) Knowingly driving a modified motor vehicle in violation of section 39-21-45.1, or equivalent ordinance	2 points
(9) Operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the violation was discovered as the result of investigation of an accident in which the driver is the owner	14 points
(10) (8) Except as provided in paragraph 9 of subdivision a, knowingly operating an unsafe vehicle in violation of section 39-21-46, or equivalent ordinance	2 points
(11) (9) Fleeing in a motor vehicle from a peace officer in violation of section 39-10-71, or equivalent ordinance	24 points
(12) Except as provided in paragraph 9, operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the driving record shows that the licensee has within the eighteen months preceding the violation previously violated section 39-08-20	12 points
(13) (10) Causing an accident with an authorized emergency vehicle or a vehicle operated by or under the control	2 points

of the director used for maintaining the state highway system in violation of subsection 5 of section 39-10-26, or equivalent ordinance

- (14)(11) Driving in violation of the conditions of an instruction permit 2 points

¹⁴³ **SECTION 7. AMENDMENT.** Section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

39-08-20. Driving without liability insurance prohibited - Penalty.

1. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1.
2. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence, including written or electronic proof of insurance, of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section if ~~that person fails to submit satisfactory evidence of the policy to the officer or the officer's agency within twenty days from the date of the request; however, during the investigation of an accident, the person may be charged with a violation of this section if that person fails to provide the satisfactory evidence within three business days from the date of the request.~~ If that person produces satisfactory evidence, including written or electronic proof of insurance, of a valid policy of liability insurance in effect at the time of the alleged violation of this section to the officer, the officer's agency, or a office of the court under which the matter will be heard, that person may not be convicted or assessed any administration fee for violation of subsection 1.
3. Notwithstanding section 26.1-30-18, a person may be convicted for failure to have a valid policy of liability insurance in effect under this section if the time of acquisition of the policy was after the time of the alleged incidence of driving without liability insurance. If the time of acquisition of the policy comes into question, the driver or owner has the burden of establishing the time of acquisition. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle.
4. Violation of subsection 1 is ~~a class B misdemeanor~~ an infraction and the sentence imposed must include a fine of at least one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within a three-year period must be fined at least three hundred dollars which may not be suspended. For a second or subsequent conviction for a violation of subsection 1 or equivalent ordinance, the court shall impound ~~order~~ the motor vehicle number plates of the motor vehicle owned and operated by the person at the time of the

¹⁴³ Section 39-08-20 was also amended by section 3 of Senate Bill No. 2041, chapter 294.

violation to be impounded until that person provides proof of insurance and a twenty dollar fee to the department court. The person shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the department office of the police officer that made the arrest and notify the department of the order. A person who does not provide the number plates to the court at the appropriate time is guilty of a class B misdemeanor.

5. Upon conviction for a violation of subsection 1 or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of three years and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.
6. A person who has been convicted for violation of subsection 1 or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.
7. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 297

HOUSE BILL NO. 1321

(Representatives Bellew, Gruchalla, Heller, Monson, Sanford, Trottier)

AN ACT to amend and reenact subsection 2 of section 39-06.1-06 of the North Dakota Century Code, relating to the penalty for overtaking a schoolbus.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁴ **SECTION 1. AMENDMENT.** Subsection 2 of section 39-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for:
 - a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, or 39-10-42, ~~39-10-46, or 39-10-46.1~~, a fee of fifty dollars.
 - b. A violation of section 39-10-05 involving failure to yield to a pedestrian or subsection 1 of section 39-10-28, a fee of fifty dollars.
 - c. A violation of section 39-21-41.2, a fee of twenty-five dollars.
 - d. A violation of subsection 1 of section 39-12-02 or section 39-08-23, a fee of one hundred dollars.
 - e. A violation of subdivision d of subsection 1 of section 39-12-04, a fee of one hundred dollars.
 - f. A violation of subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, a fee of one hundred dollars.
 - g. A violation of subsection 2 of section 39-10-21.1, a fee of two hundred fifty dollars.
 - h. A violation of section 39-10-59, a fee of one hundred dollars.
 - i. A violation of section 39-10-46 or 39-10-46.1, a fee of one hundred dollars.

Approved March 27, 2013
Filed March 27, 2013

¹⁴⁴ Section 39-06.1-06 was also amended by section 6 of Senate Bill No. 2044, chapter 295.

CHAPTER 298

SENATE BILL NO. 2046

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact subsection 7 of section 39-06-04, section 39-06.2-02, subsection 1 of section 39-06.2-06, and sections 39-06.2-07, 39-06.2-08, 39-06.2-08.1, 39-06.2-09, 39-06.2-09.1, 39-06.2-10, 39-06.2-10.5, 39-06.2-12, and 39-06.2-16 of the North Dakota Century Code, relating to commercial driver's licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁵ **SECTION 1. AMENDMENT.** Subsection 7 of section 39-06-04 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 2. AMENDMENT. Section 39-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-02. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.
2. "Alcohol concentration" means:
 - a. The number of grams of alcohol per one hundred milliliters of blood;
 - b. The number of grams of alcohol per two hundred ten liters of breath; or
 - c. The number of grams of alcohol per sixty-seven milliliters of urine.
3. "Commercial ~~driver's instruction~~learner's permit" means a permit issued under subsection 4 of section 39-06.2-07.
4. "Commercial driver's license" means a license issued under this chapter which authorizes an individual to drive a class of commercial motor vehicle.
5. "Commercial driver's license information system" means the information system established under the Commercial Motor Vehicle Safety Act to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

¹⁴⁵ Section 39-06-04 was also amended by section 9 of Senate Bill No. 2039, chapter 291.

6. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property:
 - a. If the gross combination weight rating or gross combination weight is twenty-six thousand one pounds [11794.11793.86 kilograms] or more, whichever is greater, provided the towed unit has a gross vehicle weight rating or gross vehicle weight of more than ten thousand pounds [4536 kilograms], whichever is greater;
 - b. If the vehicle has a gross vehicle weight rating or gross vehicle weight of more than twenty-six thousand pounds [11793.40 kilograms] or such lesser rating as determined by federal regulation, whichever is greater;
 - c. If the vehicle is designed to transport sixteen or more passengers, including the driver; or
 - d. If the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 CFR part 172, subpart F or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.
7. "Controlled substance" means any substance so classified under section 802(6) of the Controlled Substances Act [21 U.S.C. 802(6)], and includes all substances listed on schedules I through V, of 21 CFR part 1308, as they may be revised from time to time.
8. "Conviction" means an unvacated adjudication of guilt, or a determination that ~~a person~~ an individual has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the ~~person's~~ individual's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
9. "Disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle.
10. "Downgrade" means:
 - a. A state allows the driver to change the driver's self-certification to interstate, but operating exclusively in transportation or operation excepted from 49 CFR part 391, as provided in 390.3(f), 391.2, 391.68, or 398.3;
 - b. A state allows the driver to change the driver's self-certification to intrastate only, if the driver qualifies under the state's physical qualification requirements for intrastate only;
 - c. A state allows the driver to change the driver's certification to intrastate, but operating exclusively in transportation or operations excepted from all or part of the state driver's qualification; or
 - d. A state removes the commercial driver's license privilege from the driver's license.
11. "Drive" means to drive, operate, or be in physical control of a motor vehicle.

12. "Driver" means ~~any person~~ an individual who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license.
13. "Driver's license" means a license issued by a state to an individual which authorizes the individual to drive a motor vehicle.
14. "Drug" means any drug or substance or combination of drugs or substances which renders ~~a person~~ an individual incapable of safely driving, and includes any controlled substance.
15. "Electronic device" includes a cellular telephone, personal digital assistant, pager, computer, or any other device used to input, write, send, receive, or read text.
16. "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns ~~a person~~ an individual to drive a commercial motor vehicle.
17. "Fatality" means the death of ~~a person~~ an individual as a result of a motor vehicle accident.
18. "Felony" means any offense under state or federal law which is punishable by death or imprisonment for a term exceeding one year.
19. "Foreign jurisdiction" means any jurisdiction other than a state of the United States.
20. "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination (~~or articulated~~) vehicle. The gross vehicle weight rating of a combination (~~or articulated~~) vehicle, (commonly referred to as the "gross combination weight rating"), is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating or actual weight of the towed unit or units.
21. "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.
22. "Imminent hazard" means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.
23. "Mobile telephone" means a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the federal communications commission in 47 CFR 20.3. The term does not include two-way and citizens band radio services.
24. "Motor vehicle" means every vehicle that is self-propelled, and every vehicle that is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheelchairs.

- 24-25. "Noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles not defined by the term commercial motor vehicle.
- 25-26. "~~Nonresident~~Nondomiciled commercial driver's license" means a commercial driver's license or a commercial learner's permit issued by a state to an individual domiciled in a foreign country meeting the requirements of 49 CFR 383.23(b)(1).
- 26-27. "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.
- 27-28. "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:
- a. Excessive speeding, involving a single charge of any speed fifteen miles [24.14 kilometers] per hour or more, above the posted speed limit;
 - b. Reckless driving, as defined under section 39-08-03 or local ordinance, including charges of driving a commercial motor vehicle in willful or wanton disregard for the safety of ~~persons~~an individual or property, improper or erratic traffic lane changes, or following the vehicle ahead too closely;
 - c. A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident;
 - d. Driving a commercial motor vehicle without obtaining a commercial driver's license or commercial learner's permit;
 - e. Driving a commercial motor vehicle without a commercial driver's license or commercial learner's permit in the driver's possession. An individual who provides proof to the enforcement authority that issued the citation, by the date the individual must appear in court or pay a fine for such violation, that the individual held a valid commercial driver's license or commercial learner's permit on the date the citation was issued, is not guilty of this offense;
 - f. Driving a commercial motor vehicle without the proper class of commercial driver's license ~~or~~ endorsement, ~~or~~ both commercial learner's permit, for the specific vehicle group being operated or for the passengers or type of cargo being transported; ~~or~~
 - g. Violating a state or local law or ordinance prohibiting texting while driving; or
 - h. Violating a state law or local law or ordinance on motor vehicle traffic control restricting or prohibiting the use of a hand-held mobile telephone while driving a commercial motor vehicle.
- 28-29. "State" means a state of the United States or the District of Columbia.
30. "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous material within one or more tanks having an individual rated capacity of more than one hundred nineteen gallons [450.46 liters] and an aggregate rated capacity of one thousand gallons [3785.41 liters] or more that is either permanently or temporarily attached to

the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons [3785.41 liters] or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

29-31. "Texting" means manually entering alphanumeric text into, or reading text from, an electronic device. This action includes short message service, e-mailing, instant messaging, a command or request to access a worldwide web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone or engaging in any other form of electronic text retrieval or entry, for present or future communication. "Texting" does not include:

- a. Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone call using voice commands to initiate or receive a telephone call. Pressing a single button to initiate or terminate a voice communication using a mobile telephone;
- b. Inputting, selecting, or reading information on a global positioning system or navigation system; or
- c. Using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smartphones, citizens' band radios, or music players, for a purpose that is not otherwise prohibited in 49 CFR part 383.

32. "Third-party skills test examiner" means an individual employed by a third-party tester who is authorized by the state to administer the skills tests in 49 CFR part 383, subparts G and H.

33. "Third-party tester" means a person, including another state, a motor carrier, a private driver training facility or other private institution, or a political subdivision authorized by the state to employ skills test examiners to administer the skills tests in 49 CFR part 383, subparts G and H.

30-34. "United States" means the fifty states and the District of Columbia.

35. "Use a hand-held mobile telephone" means using at least one hand to hold a mobile telephone to conduct a voice communication; dialing or answering a mobile telephone by pressing more than a single button; or reaching for a mobile telephone in a manner that requires a driver to maneuver so that the driver is no longer in a seated driving position, restrained by a seatbelt that is installed under 49 CFR 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

¹⁴⁶ **SECTION 3. AMENDMENT.** Subsection 1 of section 39-06.2-06 of the North Dakota Century Code is amended and reenacted as follows:

1. Except when driving under a commercial driver's instruction, learner's permit and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, ~~no person an individual~~ may not drive a commercial motor vehicle on the highways of this state unless the ~~person~~ individual holds

¹⁴⁶ Section 39-06.2-06 was also amended by section 1 of Senate Bill No. 2348, chapter 299.

and is in immediate possession of a commercial driver's license with applicable endorsements valid for the vehicle the ~~person~~individual is driving. This subsection does not apply:

- a. When the vehicle being driven is a house car or a vehicle towing a travel trailer being used solely for personal rather than commercial purposes.
- b. When the vehicle being driven constitutes emergency or firefighting equipment necessary to the preservation of life or property.
- c. When the vehicle is being driven for military purposes, subject to any limitations imposed by 49 CFR part 383.3(c).

¹⁴⁷ **SECTION 4. AMENDMENT.** Section 39-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-07. Commercial driver's license qualification standards.

1. ~~Testing.~~

a. ~~General.~~ ~~No person~~An individual may ~~not~~ be issued a commercial driver's license unless that ~~person~~individual is a resident of this state ~~and~~; has passed a knowledge and skills test, including a skills test administered by another state, for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulations enumerated in 49 CFR part 383, subparts G and H; ~~and~~ has satisfied all other requirements of state and federal law, including the Commercial Motor Vehicle Safety Act ~~in addition to other requirements imposed by state law or federal regulation~~. The tests must be prescribed and conducted by the director. The applicant ~~must~~shall pay a fee of five dollars for each of the tests.

~~b.2. Third-party testing.~~ The director may authorize ~~a person, including an agency of this or another state, an employer, a private driver's training facility, or other private institution, or a department, agency, or instrumentality of local government,~~ to administer the skills test specified by this section, provided~~third-party testing, if:~~

~~(1)~~a. The test is the same as that which would otherwise be administered by ~~the~~this state; and

~~(2)~~b. The third party has entered ~~into~~ an agreement with this state which complies with requirements of 49 CFR part 383.75.

~~2.3. Waiver of skills test.~~ The director may waive the skills test specified in this section for a commercial driver's license applicant who meets the requirements of 49 CFR part 383.77.

~~3.4. Limitations on issuance of license.~~ A commercial driver's license, or commercial driver's ~~instruction~~learner's permit, may not be issued to a ~~person~~an individual while the ~~person~~individual is subject to a disqualification from driving a commercial motor vehicle; or while the ~~person's~~individual's driver's license is suspended, revoked, or canceled in any state; ~~nor may a~~A commercial driver's license may not be issued to ~~a person~~an individual who

¹⁴⁷ Section 39-06.2-07 was also amended by section 1 of Senate Bill No. 2040, chapter 300.

has a commercial driver's license issued by any other state unless the ~~person~~individual first surrenders ~~all such licenses~~that license. The director shall notify the issuing state of the surrender of the license.

4. ~~Commercial driver's instruction permit.~~

- a. A commercial ~~driver's instruction~~learner's permit may be issued to an individual who holds a valid class D ~~driver's~~operator's license who has passed the vision and written tests required for an equivalent commercial driver's license.
- b. The commercial ~~driver's instruction~~learner's permit may not be issued for a period to exceed ~~six months~~one hundred eighty days. Only one renewal or reissuance may be granted within a two-year period. The director may issue a letter of authority that authorizes the applicant to drive to a driver's license office, complete the road test, and return home. ~~The director may issue the letter of authority is used after an if all allowable number of permits have been issued.~~ The holder of a ~~commercial driver's instruction permit~~ may, unless otherwise disqualified, may drive a commercial motor vehicle only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle. A holder of a permit is not eligible for a license until that individual has had the permit issued for at least fourteen days.

¹⁴⁸ **SECTION 5. AMENDMENT.** Section 39-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-08. Application for commercial driver's license.

1. The application for a commercial driver's license or commercial ~~driver's instruction~~learner's permit must include the following:
 - a. The full name and current mailing address of the applicant;
 - b. A physical description of the applicant, including sex, height, weight, and eye and hair color;
 - c. Date of birth;
 - d. The applicant's social security number, unless the application is for a ~~nonresident~~nondomiciled commercial driver's license and the applicant is a resident of a foreign jurisdiction;
 - e. The applicant's signature;
 - f. The certifications including those required by 49 CFR part 383.71;
 - g. Any other information required by the director; and
 - h. A consent to release driving record information.

¹⁴⁸ Section 39-06.2-08 was also amended by section 2 of Senate Bill No. 2040, chapter 300.

2. The application must be accompanied by an application fee of fifteen dollars. The application must contain any other information as the director may require to improve identity security. The director may require an applicant for a commercial license or commercial ~~instruction~~learner's permit to provide a social security card and proof of residence address.
3. When the holder of a commercial driver's license changes the holder's name or mailing address, an application for a duplicate license must be made as provided in section 39-06-18.
4. An individual who has been a resident of this state for thirty days may not drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.
5. Any individual who knowingly falsifies information or certifications required under subsection 1 is subject to suspension, revocation, cancellation, or disqualification of the individual's commercial driver's license or pending application for a period of at least sixty consecutive days.

SECTION 6. AMENDMENT. Section 39-06.2-08.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-08.1. Commercial driver's license medical certification requirements.

1. The director may issue a commercial ~~driver's instruction~~learner's permit or commercial driver's license to a North Dakota resident who meets the medical qualification and certification requirements pursuant to the limitations of 49 CFR parts 383 and 391.
2. Every individual who makes application for a commercial ~~driver's instruction~~learner's permit or commercial driver's license ~~must~~shall certify that the individual meets the qualification requirements contained in 49 CFR part 391 or certify that the individual's commercial transportation is entirely in intrastate commerce and is not subject to 49 CFR part 391.
3. The application will contain the following categories to comply with the commercial driver's certification requirements:
 - a. Interstate and subject to 49 CFR part 391.
 - b. Interstate, but operating exclusively in transportation or operations excepted under 49 CFR part 390.3(f), 391.2, 391.68, or 398.3.
 - c. Intrastate and subject to state driver's qualification requirements.
 - d. Intrastate, but operating exclusively in transportation or operations excepted from all or part of the state driver's qualification requirements.
4. Every individual who makes application for or holds a commercial ~~driver's instruction~~learner's permit or commercial driver's license ~~must~~shall submit a copy of the individual's medical certificate to the director unless the commercial transportation is not subject to 49 CFR part 391.
5. The director will downgrade or remove the commercial driving privilege from the license if the medical certificate expires and the driver does not change the driver's certification if the driver is no longer subject to 49 CFR part 391.

6. If the driver provides a current medical certification, the director shall upgrade without retesting the license of a driver which was downgraded under this section.

¹⁴⁹ **SECTION 7. AMENDMENT.** Section 39-06.2-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-09. Commercial driver's license.

1. The commercial driver's license must be marked "commercial driver's license", and must be, to the maximum extent practicable, tamper proof. ~~#The license~~ must include the following information:
 - a. The name and residential address of the ~~person~~individual;
 - b. The ~~person's~~individual's color photograph;
 - c. A physical description of the ~~person~~individual, including sex, height, and eye color;
 - d. Date of birth;
 - e. A distinguishing number assigned to the ~~person~~individual;
 - f. The ~~person's~~individual's signature;
 - g. The class or type of commercial motor vehicle or vehicles which the ~~person~~individual is authorized to drive together with any endorsements or restrictions;
 - h. The name of this state; and
 - i. The dates between which the license is valid.
2. The director may issue a ~~nonresidentnondomiciled~~ commercial driver's license pursuant to the limitations of 49 CFR 383 including waiving the social security number requirement. The face of the license must be marked "~~nonresidentnondomiciled~~" in accordance with ~~49 CFR 383.153(b)~~49 CFR 383.153(c).
3. Commercial driver's licenses may be issued with the following classifications, endorsements, and restrictions; ~~the~~ The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles. Vehicles for which an endorsement is required may not be driven unless the proper endorsement appears on the license. The requirements of placarding vehicles transporting hazardous materials under subparagraph b of paragraph 3 of subdivision a and the endorsement required under paragraph 1 of subdivision b do not apply to ~~a person who is~~ the operator of a farm vehicle, ~~provided such if the~~ vehicle is controlled and operated by a farmer and used to transport hazardous materials in the form of farm supplies within one hundred fifty miles [241.40 kilometers] of the farm; and is not used in the operations of a common or contract carrier.

¹⁴⁹ Section 39-06.2-09 was also amended by section 60 of Senate Bill No. 2039, chapter 291, and section 3 of Senate Bill No. 2040, chapter 300.

a. ClassificationsThe classifications of commercial driver's licenses are:

- (1) Class A class A license. AnyThis license allows the operation of any combination of vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], providedif the gross vehicle weight rating of the vehicles being towed is in excess of ten thousand pounds [4535.92 kilograms].
- (2) Class A class B license. AnyThis license allows the operation of a single vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], and any suchthis vehicle towing a vehicle not in excess of ten thousand pounds [4535.92 kilograms].
- (3) Class A class C license. AnyThis license allows the operation of a single vehicle with a gross vehicle weight rating of twenty-six thousand pounds [11793.40 kilograms] or less or any suchthis vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand pounds [4535.92 kilograms] comprising:
 - (a) Vehicles designed to transport sixteen or more passengers, including the driver; and
 - (b) Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 CFR part 172, subpart F.

b. Endorsements and restrictions include:

- (1) "H" -that authorizes the driver to drive a vehicle transporting hazardous materials.
- (2) "T" -that authorizes driving double and triple trailers.
- (3) "P" -that authorizes driving vehicles carrying passengers.
- (4) "N" -that authorizes driving tank vehicles.
- (5) "X" -that authorizes driving combinations of tank vehicles and hazardous material vehicles.
- (6) "S" -that authorizes driving a schoolbus.

c. Other restrictions may be placed upon a commercial driver's license, as provided inunder section 39-06-17. The applicant shall pay a fee of three dollars for each endorsement.

4. Before issuing a commercial driver's license, the director shall obtain driving record information through the commercial driver's license information system, the national driver's register, and from each state in which the person/individual has been licensed.
5. Within ten days after issuing a commercial driver's license, the director shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the person/individual.

6. A commercial driver's license issued under this chapter expires in the manner provided for operator's licenses under section 39-06-19.
7. ~~Every person~~An individual applying for renewal of a commercial driver's license must complete the application form required by subsection 1 of section 39-06.2-08, ~~providing and provide~~ updated information and required certifications. ~~If the~~For an applicant wishes to retain a hazardous materials endorsement, ~~the applicant must take and pass~~ the written test for a hazardous materials endorsement ~~must be taken and passed~~.

¹⁵⁰ **SECTION 8. AMENDMENT.** Section 39-06.2-09.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-09.1. Nonresident~~Non~~Nondomiciled commercial license.

1. The department may issue a ~~nonresidentnondomiciled~~ commercial driver's license to an applicant who does not present a social security card as required by section 39-06.2-08 but who otherwise meets the requirements for a ~~nonresidentnondomiciled~~ commercial driver's license. A license issued under this subsection is valid only during the period of time of the applicant's authorized stay in the United States. The license may be renewed only upon presentation of valid documentary evidence that the status has been extended. The department shall renew without a skills or knowledge test a ~~nonresidentnondomiciled~~ commercial license that has been expired for a duration not longer than one year.
2. The fee for a ~~nonresidentnondomiciled~~ commercial driver's license is twenty dollars.

SECTION 9. AMENDMENT. Section 39-06.2-10 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-10. Disqualification and cancellation.

1. ~~Disqualification offenses. Any person~~An individual is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:
 - a. Driving a commercial motor vehicle under the influence of alcohol or drugs;
 - b. Leaving the scene of an accident involving a commercial motor vehicle driven by the ~~person~~individual in violation of section 39-08-04, 39-08-05, 39-08-07, or 39-08-09;
 - c. Using a commercial motor vehicle in the commission of any felony as defined in this chapter;
 - d. Refusal to submit to a test to determine the driver's alcohol concentration while driving a commercial motor vehicle; or

¹⁵⁰ Section 39-06.2-09.1 was also amended by section 4 of Senate Bill No. 2040, chapter 300.

- e. Driving or being in actual physical control of a commercial motor vehicle while the alcohol concentration of the ~~person's~~individual's blood, breath, or urine is four one-hundredths of one percent or more by weight.

If any of the above violations occurred while transporting a hazardous material required to be placarded, the ~~person~~individual is disqualified for a period of not less than three years.

2. An individual is disqualified for a period of not less than sixty days for providing false information to the department related to the issuance of a commercial permit or commercial license or for a period of not less than one year if convicted of fraud related to the issuance of a commercial driver's permit or license.
3. ~~A person~~An individual is disqualified for life if convicted of two or more violations of any of the offenses specified in subsection 1, ~~78, 910, or 4412~~, or any combination of those offenses, arising from two or more separate incidents. Only offenses committed while operating a commercial motor vehicle after July 1, 1989, may be considered in applying this subsection. Only offenses committed while operating a noncommercial motor vehicle after August 1, 2003, may be considered in applying this subsection.
- ~~3-4.~~ The director may adopt rules under section 39-06.2-14, establishing guidelines, including conditions, under which a disqualification for life under subsections ~~23, 89, 4011, and 4213~~ may be reduced to a period of not less than ten years.
- ~~4-5.~~ ~~A person~~An individual is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.
- ~~5-6.~~ ~~A person~~An individual is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations, or one hundred twenty days if convicted of three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.
- ~~6-7.~~ Disqualification for railroad-highway grade crossing violation:
 - a. A driver who is convicted of driving a commercial motor vehicle in violation of a federal, state, or local law or regulation pertaining to any one of the following six offenses at a railroad-highway grade crossing is disqualified for the period of time specified in subdivision b:
 - (1) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;
 - (2) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;
 - (3) For drivers who are always required to stop, failing to stop before driving onto the crossing;

- (4) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;
 - (5) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing; and
 - (6) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.
- b. Duration of disqualification for a railroad-highway grade crossing violation:
- (1) ~~First violation.~~ A driver is disqualified for not less than sixty days if the driver is convicted of a first violation of a railroad-highway grade crossing violation.
 - (2) ~~Second violation.~~ A driver is disqualified for not less than one hundred twenty days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in separate incidents.
 - (3) ~~Third or subsequent violation.~~ A driver is disqualified for not less than one year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.
- 7-8. For a first conviction of driving while under the influence of alcohol or being under the influence of a controlled substance or refusal to be tested while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for one year.
- 8-9. For a second or subsequent conviction of driving while under the influence or being under the influence of a controlled substance or refusal to be tested while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for life.
- 9-10. For a first conviction for leaving the scene of an accident while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for one year.
- 10-11. For a second or subsequent conviction for leaving the scene of an accident while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for life.
- 11-12. For a first conviction for using a vehicle to commit a felony while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for one year.
- 12-13. For a second or subsequent conviction for using a vehicle to commit a felony while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for life.

- ~~43-14.~~ For a conviction for using a vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance while operating a commercial motor vehicle or a noncommercial motor vehicle, a holder of a commercial driver's license, holder license or learner's permit must be disqualified from operating a commercial motor vehicle for life.
- ~~44-15.~~ ~~A person~~ An individual is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of any combination of two serious traffic violations within a three-year period while operating a noncommercial motor vehicle, and either conviction results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license.
- ~~45-16.~~ ~~A person~~ An individual is disqualified from driving a commercial motor vehicle for a period of not less than one hundred twenty days if convicted of any combination of three or more serious traffic violations within a three-year period while operating a noncommercial motor vehicle, and any of the convictions results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license.
- ~~46-17.~~ ~~Notice and hearing. Prior to~~ Before suspending, revoking, or disqualifying a driver under this section, the director must provide the driver with notice of opportunity for hearing, in accordance with section 39-06-33, and the hearing requested must be held in accordance with section 39-06-33.
- ~~47-18.~~ After suspending, revoking, disqualifying, or canceling a commercial driver's license, the director shall update the director's records to reflect that action within ten days. After suspending, revoking, or canceling a ~~nonresident, nondomiciled~~ commercial driver's privileges, the director shall notify the licensing authority of the state that issued the commercial driver's license or commercial driver's ~~instruction~~ learner's permit within ten days.

SECTION 10. AMENDMENT. Section 39-06.2-10.5 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-10.5. Revocation of privilege to drive commercial motor vehicle upon refusal to submit to testing.

If a person refuses to submit to testing under section 39-06.2-10.2, the law enforcement officer shall immediately take possession of the person's driver's license and issue to that person a temporary driver's permit. The director, upon the receipt of that person's driver's license and a certified written report of the law enforcement officer in the form required by the director, forwarded by the officer within five days after issuing the temporary driver's permit, showing that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle while in violation of section 39-06.2-10.1 or, had reason to believe that the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol, that the person was lawfully detained, and that the person had refused to submit to the screening test under section 39-06.2-10.2, shall revoke that person's commercial driver's license or permit to drive and any ~~nonresident, nondomiciled~~ commercial driver's privilege for the appropriate period under section 39-06.2-10, or if the person is a resident without a commercial driver's license or permit, the director shall deny to the person the issuance of a commercial driver's license or permit for the appropriate period under section 39-06.2-10 after the

date of the alleged violation, subject to the opportunity for a prerevocation hearing and postrevocation review as provided in this chapter. In the revocation of the person's driver's license the director shall give credit for time in which the person was without a driver's license after the day of the person's refusal to submit to the test except that the director may not give credit for time in which the person retained driving privileges through a temporary driver's permit.

SECTION 11. AMENDMENT. Section 39-06.2-12 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-12. Notification of traffic convictions.

Within ten days after receiving a report of the conviction of any ~~nonresident~~nondomiciled holder of a commercial driver's license for any violation of state or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle, the director shall notify the driver's licensing authority in the licensing state of the conviction.

SECTION 12. AMENDMENT. Section 39-06.2-16 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-16. Reciprocity.

1. Notwithstanding any other provision of law, ~~a person~~an individual may drive a commercial motor vehicle in this state if the ~~person~~individual has a valid commercial driver's license or commercial ~~driver's license instruction~~learner's permit issued by any state, or province or territory of Canada, or licencia federal de conductor issued by Mexico in accordance with the minimum federal standards for the issuance of a commercial motor vehicle driver's license, if the ~~person's~~individual's license or permit is not suspended, revoked, or canceled, and if the ~~person~~individual is not disqualified from driving a commercial motor vehicle.
2. The director must give all out-of-state convictions full faith and credit if the driver is licensed by this state at the time of the conviction or becomes licensed by this state at a later time and treat them for sanctioning purposes under this chapter as if they occurred in this state. For purposes of this section, originals, photostatic copies, or electronic transmissions of the records of the driver's licensing or other authority of the other jurisdiction are sufficient evidence whether or not they are certified copies.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 299**SENATE BILL NO. 2348**

(Senator Miller)
(Representative Headland)

AN ACT to amend and reenact subsection 5 of section 39-06.2-06 of the North Dakota Century Code, relating to restricted commercial driver's licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁵¹ **SECTION 1. AMENDMENT.** Subsection 5 of section 39-06.2-06 of the North Dakota Century Code is amended and reenacted as follows:

5. Pursuant to the limitations imposed by 49 CFR part 383.3, the required knowledge and skills tests may be waived and a restricted commercial driver's license issued for a single period of one hundred eighty days or two periods of ninety days within a twelve-month period to employees of agrichemical businesses, custom harvesters, farm retail outlets and suppliers, including retailers and suppliers of trees, and livestock feeders.

Approved April 3, 2013
Filed April 3, 2013

¹⁵¹ Section 39-06.2-06 was also amended by section 3 of Senate Bill No. 2046, chapter 298.

CHAPTER 300

SENATE BILL NO. 2040

(Legislative Management)
(Transportation Committee)

AN ACT to create and enact section 39-06.2-19 of the North Dakota Century Code, relating to fees for commercial driver's licenses; and to amend and reenact sections 39-06.2-07, 39-06.2-08, 39-06.2-09, 39-06.2-09.1, and 39-06.2-13.1 of the North Dakota Century Code, relating to commercial driver's licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁵² **SECTION 1. AMENDMENT.** Section 39-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-07. Commercial driver's license qualification standards.

1. ~~Testing.~~
 - a. ~~General. No person~~An individual may ~~not~~ be issued a commercial driver's license unless that ~~person~~individual is a resident of this state ~~and~~; has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulations enumerated in 49 CFR part 383, subparts G and H; ~~and has satisfied all other requirements of state law and federal law, including the Commercial Motor Vehicle Safety Act in addition to other requirements imposed by state law or federal regulation.~~ The tests must be prescribed and conducted by the director. The applicant must pay ~~at the~~ the fee of ~~five dollars listed in section 39-06.2-19~~ for each of the tests.
 - ~~b.2. Third party testing.~~ The director may authorize a person, including an agency of ~~this or another~~ state, an employer, a private driver's training facility, or other private institution, or a department, agency, or instrumentality of local government, to administer the skills test specified by this section, ~~provided if:~~
 - ~~(1)~~a. The test is the same as that which would otherwise be administered by ~~the~~this state; and
 - ~~(2)~~b. The third party has entered into an agreement with this state which complies with requirements of 49 CFR part 383.75.
 - ~~2.3. Waiver of skills test.~~ The director may waive the skills test specified in this section for a commercial driver's license applicant who meets the requirements of 49 CFR part 383.77.
 - ~~3.4. Limitations on issuance of license.~~ A commercial driver's license, or commercial driver's instruction permit, may not be issued to ~~a person~~an individual while the ~~person~~individual is subject to a disqualification from driving

¹⁵² Section 39-06.2-07 was also amended by section 4 of Senate Bill No. 2046, chapter 298.

a commercial motor vehicle, or while the ~~person's individual's~~ driver's license is suspended, revoked, or canceled in any state; ~~nor may a~~. A commercial driver's license may not be issued to a person an individual who has a commercial driver's license issued by any other state unless the person individual first surrenders all such licenses from other states. The director shall notify the issuing state of the surrender of the license.

~~4-5. Commercial driver's instruction permit.~~ An individual who has been a resident of this state for thirty days may not drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

6. a. A commercial driver's instruction permit may be issued to an individual who holds a valid class D driver's license who has passed the vision and written tests required for an equivalent commercial driver's license.
- b. ~~The commercial driver's instruction permit may not be issued for a period to exceed six months one hundred eighty days. Only one renewal or reissuance may be granted within a two-year period. The director may issue a letter of authority that authorizes the applicant to drive to a driver's license office, complete the road test, and return home. The director may issue the letter of authority is used after an if all allowable number of permits have been issued. The holder of a commercial driver's instruction permit may, unless otherwise disqualified, drive a commercial motor vehicle only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle.~~

¹⁵³ **SECTION 2. AMENDMENT.** Section 39-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-08. Application for commercial driver's license.

1. The application for a commercial driver's license or commercial driver's instruction permit must include the following:
 - a. The full name and current mailing address of the applicant;
 - b. A physical description of the applicant, including sex, height, weight, and eye and hair color;
 - c. Date of birth;
 - d. The applicant's social security number, unless the application is for a nonresident commercial driver's license and the applicant is a resident of a foreign jurisdiction;
 - e. The applicant's signature;
 - f. The certifications including those required by 49 CFR part 383.71;
 - g. Any other information required by the director; and

¹⁵³ Section 39-06.2-08 was also amended by section 5 of Senate Bill No. 2046, chapter 298.

- h. A consent to release driving record information.
2. The application must be accompanied by an application fee of ~~fifteen dollars listed in section 39-06.2-19~~. The application must contain any other information as the director may require to improve identity security. The director may require an applicant for a commercial license or commercial instruction permit to provide a social security card and proof of residence address.
 3. When the holder of a commercial driver's license changes the holder's name or mailing address, an application for a duplicate license must be made as ~~provided in~~under section 39-06-18.
 4. ~~An individual who has been a resident of this state for thirty days may not drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.~~
 5. Any individual who knowingly falsifies information or certifications required under subsection 1 is subject to suspension, revocation, cancellation, or disqualification of the individual's commercial driver's license or pending application for a period of at least sixty consecutive days.

¹⁵⁴ **SECTION 3. AMENDMENT.** Section 39-06.2-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-09. Commercial driver's license.

1. The commercial driver's license must be marked "commercial driver's license", and must be, to the maximum extent practicable, tamper proof. It must include the following information:
 - a. The name and residential address of the ~~person~~individual;
 - b. The ~~person's~~individual's color photograph;
 - c. A physical description of the ~~person~~individual, including sex, height, and eye color;
 - d. Date of birth;
 - e. A distinguishing number assigned to the ~~person~~individual;
 - f. The ~~person's~~individual's signature;
 - g. The class or type of commercial motor vehicle or vehicles which the ~~person~~individual is authorized to drive together with any endorsements or restrictions;
 - h. The name of this state; and
 - i. The dates between which the license is valid.

¹⁵⁴ Section 39-06.2-09 was also amended by section 60 of Senate Bill No. 2039, chapter 291, and section 7 of Senate Bill No. 2046, chapter 298.

2. The director may issue a nonresident commercial driver's license pursuant ~~to~~under the limitations of 49 CFR 383 including waiving the social security number requirement. The face of the license must be marked "nonresident" in accordance with 49 CFR 383.153(b).
3. Commercial driver's licenses may be issued with the following classifications, endorsements, and restrictions;~~the~~. The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles. Vehicles for which an endorsement is required may not be driven unless the proper endorsement appears on the license. The requirements of placarding vehicles transporting hazardous materials under subparagraph b of paragraph 3 of subdivision a and the endorsement required under paragraph 1 of subdivision b do not apply to ~~a person who is~~ the operator of a farm vehicle, ~~provided such if~~ the vehicle is controlled and operated by a farmer and used to transport hazardous materials in the form of farm supplies within one hundred fifty miles [241.40 kilometers] of the farm, and not used in the operations of a common or contract carrier.
 - a. ClassificationsThe classifications of commercial driver's licenses are:
 - (1) ~~Class~~A class A license. AnyThis license allows the operation of any combination of vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], ~~provided if~~ the gross vehicle weight rating of the vehicles being towed is in excess of ten thousand pounds [4535.92 kilograms].
 - (2) ~~Class~~A class B license. AnyThis license allows the operation of a single vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], and ~~any such~~this vehicle towing a vehicle not in excess of ten thousand pounds [4535.92 kilograms].
 - (3) ~~Class~~A class C license. AnyThis license allows the operation of a single vehicle with a gross vehicle weight rating of twenty-six thousand pounds [11793.40 kilograms] or less or ~~any such~~this vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand pounds [4535.92 kilograms] comprising:
 - (a) Vehicles designed to transport sixteen or more passengers, including the driver; and
 - (b) Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 CFR part 172, subpart F.
 - b. Endorsements and restrictions include:
 - (1) "H" ~~-that~~ authorizes the driver to drive a vehicle transporting hazardous materials.
 - (2) "T" ~~-that~~ authorizes driving double and triple trailers.
 - (3) "P" ~~-that~~ authorizes driving vehicles carrying passengers.

- (4) "N" ~~that~~ authorizes driving tank vehicles.
- (5) "X" ~~that~~ authorizes driving combinations of tank vehicles and hazardous material vehicles.
- (6) "S" ~~that~~ authorizes driving a schoolbus.
- c. Other restrictions may be placed upon a commercial driver's license, ~~as provided in under~~ section 39-06-17. The applicant shall pay a fee of ~~three dollars~~ listed in section 39-06.2-19 for each endorsement.
4. Before issuing a commercial driver's license, the director shall obtain driving record information through the commercial driver's license information system, the national driver's register, and from each state in which the ~~person~~ individual has been licensed.
 5. Within ten days after issuing a commercial driver's license, the director shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the ~~person~~ individual.
 6. A commercial driver's license issued under this chapter expires in the manner provided for operator's licenses under section 39-06-19.
 7. ~~Every person~~ An individual applying for renewal of a commercial driver's license must complete the application form required by subsection 1 of section 39-06.2-08, ~~providing and provide~~ updated information and required certifications. If the ~~For an applicant wishes~~ applicant wishes to retain a hazardous materials endorsement, ~~the applicant must take and pass~~ the applicant must take and pass the written test for a hazardous materials endorsement ~~must be taken and passed~~.

¹⁵⁵ **SECTION 4. AMENDMENT.** Section 39-06.2-09.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-09.1. Nonresident commercial license.

1. The department may issue a nonresident commercial driver's license to an applicant who does not present a social security card as required by section 39-06.2-08 but who otherwise meets the requirements for a nonresident commercial driver's license. A license issued under this subsection is valid only during the period of time of the applicant's authorized stay in the United States. The license may be renewed only upon presentation of valid documentary evidence that the status has been extended. The department shall renew without a skills or knowledge test a nonresident commercial license that has been expired for a duration not longer than one year.
2. The fee for a nonresident commercial driver's license is ~~twenty dollars~~ listed in section 39-06.2-19.

SECTION 5. AMENDMENT. Section 39-06.2-13.1 of the North Dakota Century Code is amended and reenacted as follows:

¹⁵⁵ Section 39-06.2-09.1 was also amended by section 8 of Senate Bill No. 2046, chapter 298.

39-06.2-13.1. Driving record information to be furnished.

Notwithstanding any other provision of law, ~~the director shall furnish, and upon request and payment of a fee of three dollars listed in section 39-06.2-19, the director shall provide~~ full information regarding the driving record of ~~a person~~ an individual who has been issued a commercial driver's license to an employer or to a prospective employer if the ~~person~~ individual has given written consent to the prospective employer for this information.

SECTION 6. Section 39-06.2-19 of the North Dakota Century Code is created and enacted as follows:

39-06.2-19. Fees - Deposit in highway fund.

1. All money received under this chapter must be paid monthly to the highway fund in the state treasury.
2. The fee for:
 - a. A commercial driver's license test is five dollars.
 - b. An application for a commercial driver's license or permit is fifteen dollars.
 - c. Each endorsement is three dollars.
 - d. A nonresident commercial driver's license is twenty dollars.
 - e. The driving record for an employer or prospective employer is three dollars.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 301

HOUSE BILL NO. 1302

(Representatives K. Koppelman, Keiser, Kiefert, Klemin, Ruby, Delmore)
(Senators Hogue, Luick, Lyson, Dotzenrod, O'Connell)

AN ACT to create and enact a new subsection to sections 27-20-10, 27-20-31, and 39-06.1-10 and a new section to chapter 39-20 of the North Dakota Century Code, relating to the twenty-four seven sobriety program; to amend and reenact subsection 3 of section 29-06-15, subsection 7 of section 39-06.1-10, sections 39-06.1-11, 39-08-01, 39-08-01.2, 39-08-01.3, 39-08-01.4, 39-20-01, 39-20-01.1, 39-20-03.1, 39-20-04, 39-20-04.1, and 39-20-05, subsections 6, 9, and 10 of section 39-20-07, and sections 39-20-14 and 40-05-06 of the North Dakota Century Code, relating to driving while under the influence and city penalties; to provide for an underage drinking prevention program; to provide for a legislative management study; to provide a penalty; and to provide appropriations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 27-20-10 of the North Dakota Century Code is created and enacted as follows:

If a child is subject to informal adjustment for a violation of section 39-08-01 or equivalent ordinance, or if a child is found to have an alcohol concentration of at least two one-hundredths of one percent by weight at the time of performance of a test within two hours after driving or being in physical control of a motor vehicle, the juvenile court shall require the child to participate in the twenty-four seven sobriety program under chapter 54-12 for up to nine months.

SECTION 2. A new subsection to section 27-20-31 of the North Dakota Century Code is created and enacted as follows:

If a child is adjudicated delinquent for a violation of section 39-08-01 or equivalent ordinance, or if a child is found to have an alcohol concentration of at least two one-hundredths of one percent by weight at the time of performance of a test within two hours after driving or being in physical control of a motor vehicle, the juvenile court shall require the child to participate in the twenty-four seven sobriety program under chapter 54-12.

SECTION 3. AMENDMENT. Subsection 3 of section 29-06-15 of the North Dakota Century Code is amended and reenacted as follows:

3. If a law enforcement officer has reasonable cause to believe an individual has violated a lawful order of a court of this state which requires the individual to participate in the twenty-four seven sobriety program authorized in sections 54-12-27 through 54-12-31, the law enforcement officer may immediately take the individual into custody without a warrant. An individual taken into custody under this subsection may not be released on bail or on the individual's personal recognizance unless the individual has made a personal appearance before a magistrate.

¹⁵⁶ **SECTION 4. AMENDMENT.** Subsection 7 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

7. The period of suspension imposed for a violation of section 39-08-01, 39-08-01.2, or 39-08-01.4 or equivalent ordinance is:
- a. Ninety-one days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within the five~~seven~~ years preceding the last violation.
 - b. One hundred eighty days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within ~~five~~the seven years preceding the last violation and the violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.
 - c. Three hundred sixty-five days if the operator's record shows the person has once violated section 39-08-01 or equivalent ordinance within the five~~seven~~ years preceding the last violation.
 - d. Two years if the operator's record shows the person has at least once violated section 39-08-01 or equivalent ordinance within the five~~seven~~ years preceding the last violation and the violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.
 - e. Two years if the operator's record shows the person has at least twice violated section 39-08-01 or equivalent ordinance within the five~~seven~~ years preceding the last violation.
 - f. Three years if the operator's record shows the person has at least twice violated section 39-08-01 or equivalent ordinance within the five~~seven~~ years preceding the last violation and the violation is for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.

¹⁵⁷ **SECTION 5.** A new subsection to section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

If an individual has a temporary restricted driver's license with the restriction the individual participates in the twenty-four seven sobriety program under chapter 54-12, the individual may operate a motor vehicle during the suspension periods under this section.

¹⁵⁸ **SECTION 6. AMENDMENT.** Section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

¹⁵⁶ Section 39-06.1-10 was also amended by section 3 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1263, chapter 296, section 5 of House Bill No. 1263, chapter 296, section 5 of House Bill No. 1302, chapter 301, and section 9 of Senate Bill No. 2044, chapter 295.

¹⁵⁷ Section 39-06.1-10 was also amended by section 3 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1263, chapter 296, section 5 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1302, chapter 301, and section 9 of Senate Bill No. 2044, chapter 295.

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

1. Except as provided under subsection 2, 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, but if the offender is participating in the twenty-four seven sobriety program under chapter 54-12, the director may issue a temporary restricted license that takes effect after fourteen days of the suspension have been served if the driver is not subject to any unrelated suspension or revocation. 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~~ in accordance with subsection 5 if the offender is participating in the twenty-four seven sobriety program under chapter 54-12 or if the offender has not committed an offense for a period of two years before the date of the filing of a written application that must be accompanied by a report from an appropriate licensed addiction treatment program or 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 a recommendation from the district court. 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.
3. 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 restricted license issued under this section is solely for the use of a motor vehicle during the licensee's normal working hours, or as provided under subsection 5, and may contain any other restrictions authorized by section 39-06-17. Violation of a restriction imposed according to this section is deemed a violation of section 39-06-17.
5. If an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance, or if the offender's license is subject to suspension under chapter 39-20 and the offender's

¹⁵⁸ Section 39-06.1-11 was also amended by section 3 of House Bill No. 1027, chapter 292, section 59 of Senate Bill No. 2039, chapter 291, and section 11 of Senate Bill No. 2044, chapter 295.

~~driver's license is not subject to an unrelated suspension or revocation, the director shall issue a temporary restricted driver's permit license to the offender only for the purpose of participation upon the restriction the offender participate in the twenty-four seven sobriety program upon under chapter 54-12. The offender shall submit an application to the director for a temporary restricted license along with submission of proof of financial responsibility and proof of participation in the twenty-four seven sobriety program by the offender to receive a temporary restricted license. 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.~~

159 **SECTION 7. AMENDMENT.** Section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

39-08-01. Persons under the influence of intoxicating liquor or any other drugs or substances not to operate vehicle - Penalty.

1. A person may not drive or be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if any of the following apply:
 - a. That person has an alcohol concentration of at least eight one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle.
 - b. That person is under the influence of intoxicating liquor.
 - c. That person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely driving.
 - d. That person is under the combined influence of alcohol and any other drugs or substances to a degree which renders that person incapable of safely driving.
 - e. That individual refuses to submit to any of the following:
 - (1) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under section 39-06.2-10.2 if the individual is driving or is in actual physical control of a commercial motor vehicle; or

159 Section 39-08-01 was also amended by section 2 of Senate Bill No. 2041, chapter 294.

- (2) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under section 39-20-01; or
- (3) An onsite screening test, or tests, of the individual's breath for the purpose of estimating the alcohol concentration in the individual's breath upon the request of a law enforcement officer under section 39-20-14.

The fact that any person charged with violating this section is or has been legally entitled to use alcohol or other drugs or substances is not a defense against any charge for violating this section, unless a drug which predominately caused impairment was used only as directed or cautioned by a practitioner who legally prescribed or dispensed the drug to that person.

- ~~2.~~ Unless as otherwise provided in section 39-08-01.2, an individual who operates 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 who refuses to submit to a chemical test, or tests, required under section 39-06.2-10.2, 39-20-01, or 39-20-14, is guilty of an offense under this section.
3. ~~An individual violating this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second offense in a five-year seven-year period, of a class A misdemeanor for a third offense in a five-year seven-year period, of a class A misdemeanor for the fourth offense in a seven-year period, and of a class C felony for a fifth or subsequent offense in a seven-year period C felony for any fourth or subsequent offense regardless of the length of time since the previous offense.~~ The minimum penalty for violating this section is as provided in subsection 4~~5~~. The court shall take judicial notice of the fact that an offense would be a subsequent offense if indicated by the records of the director or may make a subsequent offense finding based on other evidence.
- ~~3-4.~~ Upon conviction of a second or subsequent offense within ~~five~~ seven years under this section or equivalent ordinance, the court ~~must~~ may order the motor vehicle number plates of all of the motor vehicles owned and operated by the offender at the time of the offense to be impounded for the duration of the period of suspension or revocation of the offender's driving privilege by the licensing authority. The impounded number plates must be sent to the director who must retain them for the period of suspension or revocation, subject to their disposition by the court. The court may make an exception to this subsection, on an individual basis, to avoid undue hardship to an individual who is completely dependent on the motor vehicle for the necessities of life, including a family member of the convicted individual and a coowner of the motor vehicle, ~~but not including or if the offender is participating in the twenty-four seven sobriety program.~~
- 4-5. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection. For purposes of this subsection, unless the context otherwise requires, "drug court program" means a district court-supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and chemical addiction treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug courts and the drug court program.

- a. (1) For a first offense, the sentence must include both a fine of at least ~~two hundred fifty~~ five hundred dollars and an order for addiction evaluation by an appropriate licensed addiction treatment program.
- (2) In addition, for a first offense when the convicted person has an alcohol concentration of at least sixteen one-hundredths of one percent by weight, the offense is an aggravated first offense and the sentence must include a fine of at least seven hundred fifty dollars and at least two days' imprisonment.
- b. For a second offense within ~~five~~ seven years, the sentence must include at least ~~five~~ ten days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively, or ~~thirty~~ days' community service; a fine of at least ~~one~~ one thousand five hundred dollars; and an order for addiction evaluation by an appropriate licensed addiction treatment program; and at least twelve months' participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
- c. For a third offense within ~~five~~ seven years, the sentence must include at least ~~sixty~~ one hundred twenty days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively; a fine of ~~one~~ at least two thousand dollars; and an order for addiction evaluation by an appropriate licensed addiction treatment program; at least one year's supervised probation; and participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
- d. For a fourth or subsequent offense within ~~seven~~ years, the sentence must include at least one hundred eighty days' year and one day's imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively; a fine of ~~one~~ at least two thousand dollars; and an order for addiction evaluation by an appropriate licensed treatment program; at least two years' supervised probation; and participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
- e. The ~~execution or~~ imposition of sentence under this section may not be suspended or deferred under subsection 3 or 4 of section 12.1-32-02 for an offense subject to this section.
- f. If the offense is subject to subdivision a or b, a municipal court or district court may not suspend a sentence, but may convert each day of a term of imprisonment to ten hours of community service for an offense subject to paragraph 2 of subdivision a. If the offense is subject to subdivision c, the district court may suspend a sentence, except for sixty days' imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation and upon completion of the twenty-four seven sobriety program. If the offense is subject to subdivision d, the district court may suspend a sentence, except for one year's imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation. If the offense is subject to subdivision c or d, the district court may suspend a sentence,

~~except for ten days' imprisonment, under subsection 3 or 4 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation. If the defendant is found to be in need of alcohol and substance abuse treatment and rehabilitation, the district court may order the defendant placed under the supervision and management of the department of corrections and rehabilitation and is subject to the conditions of probation under section 12.1-32-07. The district court shall may require the defendant to complete alcohol and substance abuse treatment and rehabilitation under the direction of the drug court program as a condition of probation in accordance with rules adopted by the supreme court. If the district court finds that a defendant has failed to undergo an evaluation or complete treatment or has violated any condition of probation, the district court shall revoke the defendant's probation and shall sentence the defendant in accordance with this subsection.~~

f.g. For purposes of this section, conviction of an offense under a law or ordinance of another state which is equivalent to this section must be considered a prior offense if such offense was committed within the time limitations specified in this ~~subsection~~section.

g-h. If the penalty mandated by this section includes imprisonment or placement upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo treatment at an appropriate licensed addiction treatment program under subdivision g of subsection 1 of section 12.1-32-02 and the time spent by the defendant in the treatment must be credited as a portion of a sentence of imprisonment or placement under this section. A court may not order the department of corrections and rehabilitation to be responsible for the costs of treatment in a private treatment facility.

i. If the court sentences an individual to the legal and physical custody of the department of corrections and rehabilitation, the department may place the individual in an alcohol treatment program designated by the department. Upon the individual's successful completion of the alcohol treatment program, the department shall release the individual from imprisonment to serve the remainder of the sentence of imprisonment on probation, which may include placement in another facility or treatment program. If an individual is placed in another facility or treatment program after release from imprisonment the remainder of the individual's sentence of imprisonment must be considered time spent in custody.

5-6. As used in ~~subdivision b~~subdivisions b and c of subsection 4, the term "imprisonment" includes house arrest. As a condition of house arrest, a defendant may not consume alcoholic beverages. The house arrest must include a program of electronic home detention in which and the defendant is tested at least twice daily for the consumption of alcohol shall participate in the twenty-four seven sobriety program. The defendant shall defray all costs associated with the electronic home detention. This subsection does not apply to individuals committed to or under the supervision and management of the department of corrections and rehabilitation. For an offense under subdivision b or c of subsection 5, no more than ninety percent of the sentence may be house arrest.

7. As used in this title, participation in the twenty-four seven sobriety program under chapter 54-12 means compliance with sections 54-12-27 through 54-12-31, and requires sobriety breath testing twice per day seven days per week or electronic alcohol monitoring, urine testing, or drug patch testing. The offender is responsible for all twenty-four seven sobriety program fees and the court may not waive the fees.
8. An individual who operates 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 who refuses to submit to a chemical test, or tests required under section 39-06.2-10.2, 39-20-01, or 39-20-14, is guilty of an offense under this section.

SECTION 8. AMENDMENT. Section 39-08-01.2 of the North Dakota Century Code is amended and reenacted as follows:

39-08-01.2. Special punishment for causing injury or death while operating a vehicle while under the influence of alcohol.

- ~~1. If an individual is convicted of an offense under chapter 12.1-16 and the conviction is based in part on the evidence of the individual's operation of a motor vehicle while under the influence of alcohol or drugs, the sentence imposed must include at least one year's imprisonment if the individual was an adult at the time of the offense.~~
- ~~2. If an individual is convicted of violating section 39-08-01, or section 39-08-03 based in part on the evidence of the individual's operation of a motor vehicle while under the influence of alcohol or drugs, and the violation caused serious bodily injury, as defined in section 12.1-01-04, to another individual, that individual is guilty of a class A misdemeanor and the sentence must include at least ninety days' imprisonment if the individual was an adult at the time of the offense.~~
- ~~3. The sentence under this section may not be suspended unless the court finds that manifest injustice would result from imposition of the sentence. Before a sentence under this section applies, a defendant must be notified of the minimum mandatory sentence. If the finding of guilt is by jury verdict, the verdict form must indicate that the jury found the elements that create the minimum sentence.~~
1. An individual is guilty of criminal vehicular homicide if the individual commits an offense under section 39-08-01 or equivalent ordinance and as a result the individual causes a death of another individual to occur, including the death of an unborn child, unless the individual who causes the death of the unborn child is the mother. A violation of this subsection is a class A felony. If an individual commits a violation under this subsection, the court shall impose at least three years' imprisonment. If the individual violates this section after having been previously convicted of a violation of section 39-08-01 or 39-08-03, or equivalent ordinance, the court shall impose at least ten years' imprisonment. An individual may not be prosecuted and found guilty of this and an offense under chapter 12.1-16 if the conduct arises out of the same incident.
2. An individual is guilty of criminal vehicular injury if the individual violates section 39-08-01 or equivalent ordinance and as a result that individual causes substantial bodily or serious bodily injury to another individual. Violation of this subsection is a class C felony. If an individual violates this

subsection, the court shall impose at least one year's imprisonment. If the individual violates this section after having been previously convicted of a violation of section 39-08-01 or 39-08-03 or equivalent ordinance, the court shall impose at least two years' imprisonment.

3. The sentence under this section may not be suspended unless the court finds that manifest injustice would result from the imposition of the sentence. Before a sentence under this section applies, a defendant must be notified of the minimum mandatory sentence. The elements of an offense under this section are the elements of an offense for a violation of section 39-08-01 and the additional elements that create an offense in each subsection of this section.

SECTION 9. AMENDMENT. Section 39-08-01.3 of the North Dakota Century Code is amended and reenacted as follows:

39-08-01.3. Alcohol-related traffic offenses - ~~Ignition interlock devices and the seizure~~Seizure, forfeiture, and sale of motor vehicles.

A motor vehicle owned and operated by a ~~person~~ individual upon a highway or upon public or private areas to which the public has a right of access for vehicular use may be seized, forfeited, and sold or otherwise disposed of pursuant to an order of the court at the time of sentencing if the ~~person~~ individual is in violation of section 39-08-01, 39-08-01.2, or 39-08-01.4, or an equivalent ordinance and has been convicted of violating section 39-08-01 or an equivalent ordinance at least one other time within the ~~five~~ seven years preceding the violation. ~~The court may also require that an ignition interlock device be installed in the person's vehicle for a period of time that the court deems appropriate.~~

SECTION 10. AMENDMENT. Section 39-08-01.4 of the North Dakota Century Code is amended and reenacted as follows:

39-08-01.4. Driving while under the influence of alcohol while being accompanied by a minor - Penalty.

It is a class A misdemeanor for an individual who is at least twenty-one years of age to violate section 39-08-01 if the violation occurred while a minor was accompanying the individual in a motor vehicle. If an individual has a previous conviction for a violation of section 39-08-01.4, a violation of this section is a class C felony.

SECTION 11. AMENDMENT. Section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

39-20-01. Implied consent to determine alcohol concentration and presence of drugs.

1. Any individual who operates 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 is deemed to have given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of the blood, breath, or urine for the purpose of determining the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine. As used in this chapter, the word "drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and the words "chemical test" or "chemical analysis" mean any test to determine the alcohol concentration or presence of other drugs, or

combination thereof, in the individual's blood, breath, or urine, approved by the director of the state crime laboratory or the director's designee under this chapter.

2. The test or tests must be administered at the direction of a law enforcement officer only after placing the individual, except individuals mentioned in section 39-20-03, under arrest and informing that individual that the individual is or will be charged with the offense of driving or being in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of this chapter, the taking into custody of a child under section 27-20-13 or an individual under twenty-one years of age satisfies the requirement of an arrest.
3. ~~The law enforcement officer shall also inform the individual charged that North Dakota law requires the individual to take the test to determine whether the individual is under the influence of alcohol or drugs; that refusal to take the test directed by the law enforcement officer is a crime punishable in the same manner as driving under the influence; and that refusal of the individual to submit to the test ~~determined appropriate will~~ directed by the law enforcement officer may result in a revocation for a minimum of one hundred eighty days and up to four ~~three~~ years of the individual's driving privileges. The law enforcement officer shall determine which of the tests is to be used.~~
4. When an individual under the age of eighteen years is taken into custody for violating section 39-08-01 or an equivalent ordinance, the law enforcement officer shall attempt to contact the individual's parent or legal guardian to explain the cause for the custody. Neither the law enforcement officer's efforts to contact, nor any consultation with, a parent or legal guardian may be permitted to interfere with the administration of chemical testing requirements under this chapter. The law enforcement officer shall mail a notice to the parent or legal guardian of the minor within ten days after the test results are received or within ten days after the minor is taken into custody if the minor refuses to submit to testing. The notice must contain a statement of the test performed and the results of that test; or if the minor refuses to submit to the testing, a statement notifying of that fact. The attempt to contact or the contacting or notification of a parent or legal guardian is not a precondition to the admissibility of chemical test results or the finding of a consent to, or refusal of, chemical testing by the individual in custody.

SECTION 12. AMENDMENT. Section 39-20-01.1 of the North Dakota Century Code is amended and reenacted as follows:

39-20-01.1. Chemical test of driver in serious bodily injury or fatal crashes.

1. ~~Notwithstanding section 39-20-01 or 39-20-04, when~~ If the driver of a vehicle is involved in an ~~accident~~ crash resulting in the death of another ~~person~~ individual, and there is probable cause to believe that the driver is in violation of section 39-08-01 or ~~has committed a moving violation as defined in section 39-06.1-09, the driver must be compelled by a police~~ law enforcement officer shall request the driver to submit to a chemical test or tests of the driver's blood, breath, or urine to determine the alcohol concentration or the presence of other drugs or substances, or both.
2. ~~Notwithstanding section 39-20-01 or 39-20-04, when~~ If the driver of a vehicle is involved in an ~~accident~~ crash resulting in the serious bodily injury, as defined in section 12.1-01-04, of another ~~person~~ individual, and there is probable

cause to believe that the driver is in violation of section 39-08-01, a law enforcement officer ~~may compel~~ shall request the driver to submit to a test or tests of the driver's blood, breath, or urine to determine the alcohol concentration or the presence of other drugs or substances, or both. ~~The methods and techniques established by the director of the state crime laboratory must be followed in collecting and preserving a specimen or conducting a test.~~

3. If the driver refuses to submit to a chemical test or tests of the driver's blood, breath, or urine and exigent circumstances are not present, the law enforcement officer shall request a search warrant to compel the driver to submit to a chemical test or tests of the driver's blood, breath, or urine to determine the alcohol concentration or the presence of other drugs or substances, or both.
4. The approved methods of the director of the state crime laboratory or the director's designee must be followed in collecting and preserving a sample of the driver's blood, breath, or urine and conducting a chemical test or tests to determine the alcohol concentration or the presence of other drugs or substances, or both.

SECTION 13. AMENDMENT. Section 39-20-03.1 of the North Dakota Century Code is amended and reenacted as follows:

39-20-03.1. Action following test result for a resident operator.

If a person submits to a test under section 39-20-01, 39-20-02, or 39-20-03 and the test shows that person to have 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 at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle, the following procedures apply:

1. The law enforcement officer shall immediately issue to that person a temporary operator's permit if the person then has valid operating privileges, extending driving privileges for the next twenty-five days, or until earlier terminated by the decision of a hearing officer under section 39-20-05. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the director's official notification to the person of the director's intent to revoke, suspend, or deny driving privileges in this state.
2. If a test administered under section 39-20-01 or 39-20-03 was by urine sample or by drawing blood as provided in section 39-20-02 and the individual tested is not a resident of an area in which the law enforcement officer has jurisdiction, the law enforcement officer shall, on receiving the analysis of the urine or blood from the director of the state crime laboratory or the director's designee and if the analysis shows that individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, either proceed in accordance with subsection 1 during that individual's reappearance within the officer's jurisdiction, proceed in accordance with subsection 3, or notify a law enforcement agency having jurisdiction where the individual lives. On that notification, that law enforcement agency shall, within twenty-four

hours, forward a copy of the temporary operator's permit to the law enforcement agency making the arrest or to the director. The law enforcement agency shall issue to that individual a temporary operator's permit as provided in this section, and shall sign and date the permit as provided in subsection 1.

3. If the test results indicate an alcohol concentration at or above the legal limit, the law enforcement agency making the arrest may mail a temporary operator's permit to the individual who submitted to the blood or urine test, whether or not the individual is a resident of the area in which the law enforcement officer has jurisdiction. The third day after the mailing of the temporary operator's permit is considered the date of issuance. Actual notice of the opportunity for a hearing under this section is deemed to have occurred seventy-two hours after the notice is mailed by regular mail to the address submitted by the individual to the law enforcement officer. The temporary operator's permit serves as the director's official notification to the individual of the director's intent to revoke, suspend, or deny driving privileges in this state.
4. The law enforcement officer, within five days of the issuance of the temporary operator's permit, shall forward to the director a certified written report in the form required by the director. If the individual was issued a temporary operator's permit because of the results of a test, the report must show that the officer had reasonable grounds to believe the individual had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01, or equivalent ordinance, that the individual was lawfully arrested, that the individual was tested for alcohol concentration under this chapter, and that the results of the test show that the individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight. In addition to the operator's license and report, the law enforcement officer shall forward to the director a certified copy of the operational checklist and test records of a breath test and a copy of the certified copy of the analytical report for a blood or urine test for all tests administered at the direction of the officer.
5. An individual charged with a violation of section 39-08-01 or equivalent ordinance may elect to participate in the twenty-four seven sobriety program under chapter 54-12 in lieu of the administrative hearing under this chapter if the individual's driver's license is not subject to an unrelated suspension or revocation. Notwithstanding any other provision of law, an individual may not receive a temporary restricted operator's license until after fourteen days after the administrative hearing on the offense under this chapter has been waived or held, or after fourteen days of the final appeal, whichever is longer. The director shall issue a temporary restricted driver's license with the restriction the individual participate in the twenty-four seven sobriety program upon application by the individual with submission of proof of financial responsibility and proof of participation in the twenty-four seven sobriety program under chapter 54-12.

SECTION 14. AMENDMENT. Section 39-20-04 of the North Dakota Century Code is amended and reenacted as follows:

39-20-04. Revocation of privilege to drive motor vehicle upon refusal to submit to testing.

1. If a person refuses to submit to testing under section 39-20-01 or 39-20-14, none may be given, but the law enforcement officer shall immediately take possession of the person's operator's license if it is then available and shall immediately issue to that person a temporary operator's permit, if the person then has valid operating privileges, extending driving privileges for the next twenty-five days or until earlier terminated by a decision of a hearing officer under section 39-20-05. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the director's official notification to the person of the director's intent to revoke driving privileges in this state and of the hearing procedures under this chapter. The director, upon the receipt of that person's operator's license and a certified written report of the law enforcement officer in the form required by the director, forwarded by the officer within five days after issuing the temporary operator's permit, showing that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01 or equivalent ordinance or, for purposes of section 39-20-14, had reason to believe that the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol, that the person was lawfully arrested if applicable, and that the person had refused to submit to the test or tests under section 39-20-01 or 39-20-14, shall revoke that person's license or permit to drive and any nonresident operating privilege for the appropriate period under this section, or if the person is a resident without a license or a permit to operate a motor vehicle in this state, the director shall deny to the person the issuance of a license or permit for the appropriate period under this section after the date of the alleged violation, subject to the opportunity for a prerevocation hearing and postrevocation review as provided in this chapter. In the revocation of the person's operator's license the director shall give credit for time in which the person was without an operator's license after the day of the person's refusal to submit to the test except that the director may not give credit for time in which the person retained driving privileges through a temporary operator's permit issued under this section or section 39-20-03.2. The period of revocation or denial of issuance of a license or permit under this section is:
 - a. ~~One year~~hundred eighty days if the person's driving record shows that within the ~~five~~seven years preceding the most recent violation of this section, the person's operator's license has not previously been suspended, revoked, or issuance denied for a violation of this chapter or section 39-08-01 or equivalent ordinance.
 - b. ~~Three~~Two years if the person's driving record shows that within the ~~five~~seven years preceding the most recent violation of this section, the person's operator's license has been once previously suspended, revoked, or issuance denied for a violation of this chapter or section 39-08-01 or equivalent ordinance.
 - c. ~~Four~~Three years if the person's driving record shows that within the ~~five~~seven years preceding the most recent violation of this section, 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 of the same, and the suspensions, revocations, or denials resulted from at least two separate arrests.
2. A person's driving privileges are not subject to revocation under subdivision a of subsection 1 if all of the following criteria are met:
 - a. An administrative hearing is not held under section 39-20-05;
 - b. The person mails an affidavit to the director within twenty-five days after the temporary operator's permit is issued. The affidavit must state that the person:
 - (1) Intends to voluntarily plead guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
 - (2) Agrees that the person's driving privileges must be suspended as provided under section 39-06.1-10;
 - (3) Acknowledges the right to a section 39-20-05 administrative hearing and section 39-20-06 judicial review and voluntarily and knowingly waives these rights; and
 - (4) Agrees that the person's driving privileges must be revoked as provided under this section without an administrative hearing or judicial review, if the person does not plead guilty within twenty-five days after the temporary operator's permit is issued, or the court does not accept the guilty plea, or the guilty plea is withdrawn;
 - c. The person pleads guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
 - d. The court accepts the person's guilty plea and a notice of that fact is mailed to the director within twenty-five days after the temporary operator's permit is issued; and
 - e. A copy of the final order or judgment of conviction evidencing the acceptance of the person's guilty plea is received by the director prior to the return or reinstatement of the person's driving privileges; and
 - f. ~~The person has never been convicted under section 39-08-01 or equivalent ordinance.~~
 3. The court must mail a copy of an order granting a withdrawal of a guilty plea to violating section 39-08-01, or equivalent ordinance, to the director within ten days after it is ordered. Upon receipt of the order, the director shall immediately revoke the person's driving privileges as provided under this section without providing an administrative hearing.

SECTION 15. AMENDMENT. Section 39-20-04.1 of the North Dakota Century Code is amended and reenacted as follows:

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

1. After the receipt of the certified report of a law enforcement officer and if no written request for hearing has been received from the arrested person under section 39-20-05, or if that hearing is requested and the findings, conclusion, and decision from the hearing confirm that the law enforcement officer had reasonable grounds to arrest the person and test results show that the arrested person was driving or in physical control of a vehicle while having 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 at the time of the performance of a test within two hours after driving or being in physical control of a motor vehicle, the director shall suspend the person's driving privileges as follows:
 - a. For ninety-one days if the person's driving record shows that, within the ~~five~~seven years preceding the date of the arrest, the person has not previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has not previously been suspended or revoked under this chapter and the 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~~the seven 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~~seven 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~~seven 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~~seven 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~~the seven 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 from at least two separate arrests and the last violation or suspension was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.
2. In the suspension of the person's operator's license the director shall give credit for the time the person was without an operator's license after the day of the offense, except that the director may not give credit for the time the person retained driving privileges through a temporary operator's permit issued under section 39-20-03.1 or 39-20-03.2.

SECTION 16. AMENDMENT. Section 39-20-05 of the North Dakota Century Code is amended and reenacted as follows:

39-20-05. Administrative hearing on request - Election to participate in the twenty-four seven sobriety program.

1. Before issuing an order of suspension, revocation, or denial under section 39-20-04 or 39-20-04.1, the director shall afford that person an opportunity for a hearing if the person mails or communicates by other means authorized by the director a request for the hearing to the director within ten days after the date of issuance of the temporary operator's permit. Upon completion of the hearing, an individual may elect to participate in the twenty-four seven sobriety program under chapter 54-12. The hearing must be held within thirty days after the date of issuance of the temporary operator's permit. If no hearing is requested within the time limits in this section, and no affidavit is submitted within the time limits under subsection 2 of section 39-20-04, and if the individual has not provided the director with written notice of election to participate in the twenty-four seven sobriety program under chapter 54-12, the expiration of the temporary operator's permit serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state.
2. If the issue to be determined by the hearing concerns license suspension for operating a motor vehicle while having an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, the hearing must be before a hearing officer assigned by the director and at a time and place designated by the director. The hearing must be recorded and its scope may cover only the issues of whether the arresting officer had reasonable grounds to believe the individual had been driving or was in actual physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance or, with respect to an individual under twenty-one years of age, the individual had been driving or was in actual physical control of a vehicle while having an alcohol concentration of at least two one-hundredths of one percent by weight; whether the individual was placed under arrest, unless the individual was under twenty-one years of age and the alcohol concentration was less than eight one-hundredths of one percent by weight, then arrest is not required and is not an issue under any provision of this chapter; whether the individual was tested in accordance with section 39-20-01 or 39-20-03 and, if applicable,

section 39-20-02; and whether the test results show the individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight. For purposes of this section, a copy of a certified copy of an analytical report of a blood or urine sample from the director of the state crime laboratory or the director's designee, or electronically posted by the director of the state crime laboratory or the director's designee on the crime laboratory information management system and certified by a law enforcement officer or individual who has authorized access to the crime laboratory management system through the criminal justice data information sharing system or a certified copy of the checklist and test records from a certified breath test operator, and a copy of a certified copy of a certificate of the director of the state crime laboratory designating the director's designees, establish prima facie the alcohol concentration or the presence of drugs, or a combination thereof, shown therein. Whether the individual was informed that the privilege to drive might be suspended based on the results of the test is not an issue.

3. If the issue to be determined by the hearing concerns license revocation for refusing to submit to a test under section 39-20-01 or 39-20-14, the hearing must be before a hearing officer assigned by the director at a time and place designated by the director. The hearing must be recorded. The scope of a hearing for refusing to submit to a test under section 39-20-01 may cover only the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance or, with respect to a person under twenty-one years of age, the person had been driving or was in actual physical control of a vehicle while having an alcohol concentration of at least two one-hundredths of one percent by weight; whether the person was placed under arrest; and whether that person refused to submit to the test or tests. The scope of a hearing for refusing to submit to a test under section 39-20-14 may cover only the issues of whether the law enforcement officer had reason to believe the person committed a moving traffic violation or was involved in a traffic accident as a driver, whether in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol and, whether the person refused to submit to the onsite screening test. Whether the person was informed that the privilege to drive would be revoked or denied for refusal to submit to the test or tests is not an issue.
4. At a hearing under this section, the regularly kept records of the director and state crime laboratory may be introduced. Those records establish prima facie their contents without further foundation. For purposes of this chapter, the following are deemed regularly kept records of the director and state crime laboratory:
 - a. Any copy of a certified copy of an analytical report of a blood or urine sample received by the director from the director of the state crime laboratory or the director's designee or electronically posted by the director of the state crime laboratory or the director's designee on the crime laboratory information management system and certified by, and received from, a law enforcement officer or an individual who has authorized access to the crime laboratory management system through the criminal justice data information sharing system, or a certified copy of the checklist and

- test records received by the director from a certified breath test operator; and
- b. Any copy of a certified copy of a certificate of the director of the state crime laboratory or the director's designee relating to approved methods, devices, operators, materials, and checklists used for testing for alcohol concentration or the presence of drugs received by the director from the director of the state crime laboratory or the director's designee, or that have been electronically posted with the state crime laboratory division of the attorney general at the attorney general website; and
 - c. Any copy of a certified copy of a certificate of the director of the state crime laboratory designating the director's designees.
5. At the close of the hearing, the hearing officer shall notify the person of the hearing officer's findings of fact, conclusions of law, and decision based on the findings and conclusions and shall immediately deliver to the person a copy of the decision. If the hearing officer does not find in favor of the person, the copy of the decision serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state. If the hearing officer finds, based on a preponderance of the evidence, that the person refused a test under section 39-20-01 or 39-20-14 or that the person had 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, the hearing officer shall immediately take possession of the person's temporary operator's permit issued under this chapter. If the hearing officer does not find against the person, the hearing officer shall sign, date, and mark on the person's permit an extension of driving privileges for the next twenty days and shall return the permit to the person. The hearing officer shall report the findings, conclusions, and decisions to the director within ten days of the conclusion of the hearing. If the hearing officer has determined in favor of the person, the director shall return the person's operator's license by regular mail to the address on file with the director under section 39-06-20.
6. If the person who requested a hearing under this section fails to appear at the hearing without justification, the right to the hearing is waived, and the hearing officer's determination on license revocation, suspension, or denial will be based on the written request for hearing, law enforcement officer's report, and other evidence as may be available. The hearing officer shall, on the date for which the hearing is scheduled, mail to the person, by regular mail, at the address on file with the director under section 39-06-20, or at any other address for the person or the person's legal representative supplied in the request for hearing, a copy of the decision which serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state. Even if the person for whom the hearing is scheduled fails to appear at the hearing, the hearing is deemed to have been held on the date for which it is scheduled for purposes of appeal under section 39-20-06.

SECTION 17. AMENDMENT. Subsection 6 of section 39-20-07 of the North Dakota Century Code is amended and reenacted as follows:

6. The director of the state crime laboratory or the director's designee may appoint, train, certify, and supervise field inspectors of breath testing

equipment and its operation, and the inspectors shall report the findings of any inspection to the director of the state crime laboratory or the director's designee for appropriate action. Upon approval of the methods or devices, or both, required to perform the tests and the individuals qualified to administer them, the director of the state crime laboratory or the director's designee shall prepare, certify, and electronically post a written record of the approval with the state crime laboratory division of the attorney general at the attorney general website, and shall include in the record:

- a. An annual register of the specific testing devices currently approved, including serial number, location, and the date and results of last inspection.
- b. An annual register of currently qualified and certified operators of the devices, stating the date of certification and its expiration.
- c. The operational checklist and forms prescribing the methods currently approved by the director of the state crime laboratory or the director's designee in using the devices during the administration of the tests.
- d. The certificate of the director of the state crime laboratory designating the director's designees.
- e. The certified records electronically posted under this section may be supplemented when the director of the state crime laboratory or the director's designee determines it to be necessary, and any certified supplemental records have the same force and effect as the records that are supplemented.
- e-f. The state crime laboratory shall make the certified records required by this section available for download in a printable format on the attorney general website.

SECTION 18. AMENDMENT. Subsection 9 of section 39-20-07 of the North Dakota Century Code is amended and reenacted as follows:

9. Notwithstanding any statute or rule to the contrary, a defendant who has been found to be indigent by the court in the criminal proceeding at issue may subpoena, without cost to the defendant, the individual who conducted the chemical analysis referred to in this section to testify at the trial on the issue of the amount of alcohol concentration or presence of other drugs, or a combination thereof in the defendant's blood, breath, or urine at the time of the alleged act. ~~If the state toxicologist, the director of the state crime laboratory, or any employee of either, or designee is subpoenaed to testify by a defendant who is not indigent and the defendant does not call the witness to establish relevant evidence, the court shall order the defendant to pay costs to the witness as provided in section 31-01-16. An indigent defendant may also subpoena the individual who withdrew the defendant's blood by following the same procedure.~~

SECTION 19. AMENDMENT. Subsection 10 of section 39-20-07 of the North Dakota Century Code is amended and reenacted as follows:

10. ~~A signed statement from the individual medically qualified to draw the blood sample for testing as set forth in subsection 5 is prima facie evidence that the blood sample was properly drawn and no further foundation for the admission~~

~~of this evidence may be required. A law enforcement officer who has witnessed an individual who is medically qualified to draw the blood sample for testing may sign a verified statement that the law enforcement officer witnessed the individual draw the blood sample and the individual followed the approved methods of the state toxicologist. Further foundation is not required to establish that the blood sample was drawn according to the approved method of the state toxicologist.~~

SECTION 20. AMENDMENT. Section 39-20-14 of the North Dakota Century Code is amended and reenacted as follows:

39-20-14. Screening tests.

1. Any individual who operates a motor vehicle upon the public highways of this state is deemed to have given consent to submit to an onsite screening test or tests of the individual's breath for the purpose of estimating the alcohol concentration in the individual's breath upon the request of a law enforcement officer who has reason to believe that the individual committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the individual's body contains alcohol.
2. An individual may not be required to submit to a screening test or tests of breath while at a hospital as a patient if the medical practitioner in immediate charge of the individual's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient.
3. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the director of the state crime laboratory or the director's designee and according to methods and with devices approved by the director of the state crime laboratory or the director's designee. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the individual that North Dakota law requires the individual to take the screening test to determine whether the individual is under the influence of alcohol, that refusal to take the screening test is a crime, and that refusal of the individual to submit to a screening test ~~will~~ may result in a revocation for at least one hundred eighty days and up to four~~three~~ years of that individual's driving privileges. If such individual refuses to submit to such screening test or tests, none may be given, but such refusal is sufficient cause to revoke such individual's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available. ~~However, the~~
4. ~~The~~ director must not revoke an individual's driving privileges for refusing to submit to a screening test requested under this section if the individual provides a sufficient breath, blood, or urine sample for a chemical test requested under section 39-20-01 for the same incident.
5. No provisions of this section may supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except as provided herein.

6. For the purposes of this section, "chemical test operator" means an individual certified by the director of the state crime laboratory or the director's designee as qualified to perform analysis for alcohol in an individual's blood, breath, or urine.

SECTION 21. A new section to chapter 39-20 of the North Dakota Century Code is created and enacted as follows:

Restricted license upon twenty-four seven sobriety program participation.

Any driver suspended under this chapter may elect to participate in the twenty-four seven sobriety program under chapter 54-12. The director may issue a temporary restricted license that takes effect after fifteen days of the suspension have been served provided that the driver is not subject to any unrelated suspension. Notwithstanding any other provision of law, an individual may not receive a temporary restricted operator's license until after fourteen days after the administrative hearing on the offense under this chapter has been waived or held, or after fourteen days of the final appeal, whichever is longer.

SECTION 22. AMENDMENT. Section 40-05-06 of the North Dakota Century Code is amended and reenacted as follows:

40-05-06. City fines and penalties limited.

1. Except as provided in subsections 2 and 3, the fine or penalty for the violation of any ordinance, resolution, or regulation of a city may not exceed one thousand five hundred dollars, and the imprisonment may not exceed thirty days for one offense.
2. For every violation of a city ordinance regulating the operation or equipment of motor vehicles or regulating traffic, except those ordinances listed in section 39-06.1-05, a fee may be established, by ordinance, which may not exceed the limits, for equivalent categories of violations, set forth in section 39-06.1-06.
3. For every violation of a city ordinance enforcing the requirements of 40 CFR 403 relating to publicly owned treatment works, or prohibiting shoplifting, vandalism, criminal mischief, or malicious mischief, the penalty may not exceed a fine of one thousand dollars, imprisonment for thirty days, or both such fine and imprisonment.

This section does not prohibit the use of the sentencing alternatives, other than a fine or imprisonment, provided by section 12.1-32-02 for the violation of a city ordinance, nor does this section limit the use of deferred or suspended sentences under subsections 3 and 4 of section 12.1-32-02.

SECTION 23. LEGISLATIVE MANAGEMENT STUDY - ADMINISTRATIVE PROCEDURE FOR DRIVING UNDER THE INFLUENCE. During the 2013-14 interim, the legislative management shall consider studying the administrative procedure for driving under the influence of alcohol and drugs. The study must include a review of the use of ignition interlock devices and of the effect of an individual refusing to submit to chemical testing. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 24. DEPARTMENT OF HUMAN SERVICES - UNDERAGE DRINKING PREVENTION PROGRAM. The department of human services shall facilitate the continuation of the parents listen, educate, ask, discuss program, a multiagency collaboration among the department of human services, department of transportation, North Dakota state university extension service, and North Dakota university system which has the goal of reducing the consumption of alcohol by minors by providing developmentally appropriate strategies and evidence-based underage drinking prevention services to parents and professionals throughout the state. Through this program the department of human services shall collaborate with the governor's prevention advisory council on drugs and alcohol in pursuing prevention activities.

SECTION 25. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$360,000, or so much of the sum as may be necessary, to the department of human services for the purpose of funding the underage drinking prevention program provided for under section 24 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 26. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,200,000, or so much of the sum as may be necessary, to the attorney general for the purpose of purchasing secure continuous remote alcohol monitors for individuals in the twenty-four seven sobriety program, for the biennium beginning July 1, 2013, and ending June 30, 2015.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 302

HOUSE BILL NO. 1123

(Transportation Committee)
(At the request of the Highway Patrol)

AN ACT to amend and reenact section 39-08-09 of the North Dakota Century Code, relating to immediate notification of an accident.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-08-09 of the North Dakota Century Code is amended and reenacted as follows:

39-08-09. Immediate notice of accident - Penalty.

1. The driver of a vehicle involved in an accident resulting in injury to or death of any person, or property damage to an apparent extent of at least one thousand dollars, shall immediately give notice of the accident to the local police department if the accident occurs within a municipality, otherwise to the office of the county sheriff or the state highway patrol. Any person who violates this section must be assessed a fine of fifty dollars. The name of the motor vehicle insurance policy carrier and the policy number of the driver, or if the driver is not the owner of the vehicle, then the motor vehicle insurance policy carrier and the policy number of the owner of the vehicle, must be furnished to the law enforcement officer investigating the accident. If the driver does not have the required information concerning insurance to furnish to the investigating law enforcement officer, then within five days of the accident the driver shall supply that information to the driver's license division in the form the division requires.
2. The director may suspend the license or permit to drive and any nonresident operating privileges of any person failing to comply with the duties as provided in sections 39-08-06 through 39-08-09 until those duties have been fulfilled, and the director may extend the suspension not to exceed thirty days.
3. The driver of a vehicle involved in an accident with an undomesticated animal resulting in property damage only to the driver's vehicle is exempt from the notice requirements of this section, regardless of the amount of damage to the driver's vehicle.

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 303

SENATE BILL NO. 2310

(Senator Oehlke)

AN ACT to amend and reenact subsections 4 and 6 of section 39-08-13 of the North Dakota Century Code, relating to accident report forms.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶⁰ **SECTION 1. AMENDMENT.** Subsection 4 of section 39-08-13 of the North Dakota Century Code is amended and reenacted as follows:

4. The reports required to be forwarded by law enforcement officers and the information contained therein ~~shall not be in the reports is not~~ privileged or held confidential. If, however, the investigating officer expresses an opinion as to fault or responsibility for the accident, the opinion is confidential and not open to public inspection, except as provided in subsection 5. In addition, the following information contained in the report is an exempt record as defined in section 44-04-17.1 unless the requester is a party to the accident, a party's legal representative, the insurer of any party to the accident, the agent of that insurer, or the legal representative or insurer of an individual involved in defending or investigating a prior or subsequent claim or accident involving a party to the accident:
 - a. Driver identification number of a party in the report;
 - b. Telephone number of a party in the report;
 - c. Insurance company name and policy number of a party in the report; and
 - d. Day and month of birth of a party in the report.

¹⁶¹ **SECTION 2. AMENDMENT.** Subsection 6 of section 39-08-13 of the North Dakota Century Code is amended and reenacted as follows:

6. Upon request of any person and upon payment of a fee of two dollars, the director or the law enforcement agency may furnish to a requester a copy of that portion of an investigating officer's accident report which does not disclose the opinion of the reporting officer or contain any exempt information that may not be disclosed, if the report shows that the accident is one for which a driver is required to file a report under section 39-08-09.

Approved April 19, 2013
Filed April 19, 2013

¹⁶⁰ Section 39-08-13 was also amended by section 2 of Senate Bill No. 2310, chapter 303.

¹⁶¹ Section 39-08-13 was also amended by section 1 of Senate Bill No. 2310, chapter 303.

CHAPTER 304

HOUSE BILL NO. 1124

(Transportation Committee)
(At the request of the Highway Patrol)

AN ACT to amend and reenact subsection 1 of section 39-12-02 of the North Dakota Century Code, relating to permits for oversize and overweight vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-12-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The highway patrol and local authorities in their respective jurisdictions, upon application and payment of the appropriate charges and for good cause shown, may issue a special written permit authorizing the applicant to operate or move a vehicle, mobile home, or modular unit of a size or weight exceeding the maximum specified by this chapter, upon a highway under the jurisdiction of the body granting the permit. Every permit may designate the route to be traversed and may contain any other restrictions or conditions deemed necessary by the body granting the permit. Every permit must be carried in the vehicle to which it refers in printed or electronic format and must be opened to inspection by any peace officer or agent of the superintendent of the highway patrol unless prior approval is obtained from the highway patrol. It is a violation of this chapter for any person to violate any of the terms or conditions of the permit. The highway patrol and local authorities may adopt rules governing the movement of oversize and overweight vehicles.

Approved March 26, 2013

Filed March 27, 2013

CHAPTER 305

HOUSE BILL NO. 1139

(Representatives Belter, Brandenburg, Boe)
(Senators Campbell, Schaible, Dotzenrod)

AN ACT to create and enact a new subsection to section 39-12-05.3 of the North Dakota Century Code, relating to weight exemption for implements of husbandry.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-12-05.3 of the North Dakota Century Code is created and enacted as follows:

The axle weight limitations in subsection 1 do not apply to movements of implements of husbandry or equipment with pneumatic tires used for construction which is used by an agricultural producer while using the equipment for the producer's agricultural, horticultural, or livestock operations if the maximum wheel load does not exceed five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width and if the gross weight limitation in this section is not exceeded.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 306

SENATE BILL NO. 2025

(Legislative Management)
(Advisory Commission on Intergovernmental Relations)

AN ACT to amend and reenact sections 39-12-14.1 and 39-12-20 of the North Dakota Century Code, relating to extraordinary road use fees; to provide a continuing appropriation; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-12-14.1 of the North Dakota Century Code is amended and reenacted as follows:

39-12-14.1. Voluntary settlement of extraordinary road use fee charges.

Before the complaint is issued pursuant to ~~under~~ section 39-12-14, the owner, or the owner's driver or agent, may voluntarily pay the amount of the extraordinary road use fee, or may provide proof of surety coverage to ensure payment of the extraordinary road use fee, provided under section 39-12-17, plus any towing or storage costs. Any settlement, whether made by the owner, or the owner's driver or agent, ~~must be~~ presumed to be of a voluntary nature. A peace officer or a peace officer's designee is authorized to receive the settlement payment on behalf of the authority having jurisdiction ~~efover~~ the road ~~whereon~~ on which the violation occurred. The extraordinary road use fees for a violation on an interstate or on a state highway must be deposited with the state treasurer to be credited to the state highway fund. Extraordinary road use fees for a violation that did not occur on an interstate or a state highway must be deposited in the general fund of the jurisdiction having authority over the road on which the violation occurred and must be used for the support of the road system of that jurisdiction.

SECTION 2. AMENDMENT. Section 39-12-20 of the North Dakota Century Code is amended and reenacted as follows:

39-12-20. Proceeds of sale - Continuing appropriation.

The proceeds of sale must be deposited with the state treasurer. ~~The~~ For a violation on an interstate or a state highway, the state treasurer shall deposit in the state highway fund an amount equal to the amount of the charges assessed pursuant ~~to~~ under section 39-12-17 after paying the costs to the county. ~~An~~ For any violation, an amount equal to the costs of the proceedings, including attorney's and witness fees and costs, is appropriated on a continuing basis out of the funds collected to the county ~~in which the of~~ prosecution took place for the purpose of defraying the costs of prosecution. From the proceeds of sale for a violation that did not occur on an interstate or a state highway, the amount of charges assessed under section 39-12-17 is appropriated on a continuing basis and must be deposited in the general fund in the jurisdiction in which the violation occurred and must be used for the support of the road system of that jurisdiction. The balance of the proceeds of any sale after the payment of costs and charges is appropriated on a continuing basis out of the funds collected to be paid to the person entitled ~~thereto~~ to the proceeds as

determined by the court or must be deposited with the clerk of court for such payment to that person.

SECTION 3. EXPIRATION DATE. This Act is effective through June 30, 2017, and after that date is ineffective.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 307

SENATE BILL NO. 2317

(Senators Poolman, Klein)
(Representatives Dockter, Drovdal)

AN ACT to create and enact two new subsections to section 39-01-01 of the North Dakota Century Code, relating to definitions; and to amend and reenact sections 39-18-01, 39-18-02, 39-18-06, and 39-18-08 of the North Dakota Century Code, relating to mobile home and manufactured home dealer regulation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶² **SECTION 1.** A new subsection to section 39-01-01 of the North Dakota Century Code is created and enacted as follows:

"Manufactured home" means a structure, transportable in one or more sections, that, in the traveling mode, is eight body feet [2.44 meters] or more in width or forty body feet [12.19 meters] or more in length, or, when erected on site, is three hundred twenty square feet [29.73 square meters] or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to whether the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under title 42 of the United States Code.

¹⁶³ **SECTION 2.** A new subsection to section 39-01-01 of the North Dakota Century Code is created and enacted as follows:

"Mobile home" means a structure, either single or multisectional, which is built on a permanent chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, owned or used as a residence or place of business of the owner or occupant, which is either attached to utility services or is twenty-seven feet [8.23 meters] or more in length.

SECTION 3. AMENDMENT. Section 39-18-01 of the North Dakota Century Code is amended and reenacted as follows:

¹⁶² Section 39-01-01 was also amended by section 1 of House Bill No. 1100, chapter 281, section 1 of Senate Bill No. 2039, chapter 291, section 2 of Senate Bill No. 2039, chapter 291, and section 2 of Senate Bill No. 2317, chapter 307.

¹⁶³ Section 39-01-01 was also amended by section 1 of House Bill No. 1100, chapter 281, section 1 of Senate Bill No. 2039, chapter 291, section 2 of Senate Bill No. 2039, chapter 291, and section 1 of Senate Bill No. 2317, chapter 307.

39-18-01. Mobile home and manufactured home dealer's license - Fees - Dealer's plates - Penalty.

1. ~~No~~ ~~A~~ ~~person,~~ ~~partnership,~~ ~~corporation,~~ ~~or~~ ~~limited~~ ~~liability~~ ~~company~~ may ~~not~~ engage in the business of buying, selling, or exchanging of mobile homes, manufactured homes, or travel trailers, or advertise or hold ~~oneself~~ ~~or~~ ~~itself~~ ~~that~~ person out to the public as being in the business of buying, selling, or exchanging of mobile homes, manufactured homes, or travel trailers without first being licensed ~~to do so as hereinafter provided.~~
2. Application for a dealer's license and renewal license must be made to the department on such forms as the department prescribes and furnishes, and the application must be accompanied by an annual fee of thirty-five dollars for which must be issued one dealer plate. A dealer's license expires on December thirty-first of each year, and application for renewal of a dealer's license must be made on or before the expiration of the current dealer's license.
3. A mobile home or manufactured home dealer's license must be issued only to those who will maintain a permanent office and place of business, and an adequate service department, during the licensing year, and will abide by all the provisions of law pertaining to mobile home or manufactured home dealers.
4. In addition, the dealer shall maintain that person's business records in one central location.
5. Upon the payment of the fee of ten dollars for each additional plate, the department shall register and issue dealer's license plates for use on any mobile or manufactured homes owned by the licensed dealer, and the mobile and manufactured homes bearing the dealer's license plates may be lawfully operated upon the public highways of the state of North Dakota by the dealer, and the dealer's agents and servants, during the year of the registration. A dealer's license plates expire on December thirty-first of each year.
6. The term "mobile home" as used in this chapter includes and has the same meaning as "housetrailer", and both terms have the meaning prescribed in section 39-01-01. The ~~term~~ ~~terms~~ "travel trailer" and "manufactured home" as used in this chapter ~~has~~ have the meaning as prescribed in section 39-01-01.
7. Any mobile home or manufactured home dealer licensed under ~~the provisions~~ of this chapter may sell house cars without being licensed under ~~the provisions~~ of chapter 39-22. A mobile home or manufactured home dealer plate displayed on a house car must be displayed on the rear of the vehicle.
8. Any dealer violating this chapter must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall suspend the license of a mobile home or manufactured home dealer licensed under this chapter if a third or subsequent violation of this chapter occurs within five years of the first violation.

SECTION 4. AMENDMENT. Section 39-18-02 of the North Dakota Century Code is amended and reenacted as follows:

39-18-02. Bond required.

Before the issuance of a mobile home or manufactured home dealer's license, as provided by law, the applicant for such the license shall furnish a continuous surety bond executed by the applicant as principal and executed by a surety company licensed and qualified to do business within the state of North Dakota, which this state. The bond must be in the amount of ten fifty thousand dollars, and be conditioned upon the faithful compliance by said the applicant as a dealer, if such the license be is issued to the dealer, that such the dealer will comply with all the laws of the state of North Dakotathis state pertaining to such the business, and regulating or being applicable to the business of said the dealer as a dealer in mobile homes or manufactured homes, and indemnifying any person dealing or transacting business with such the dealer in connection with any mobile home or manufactured home from any loss or damage occasioned by the failure of such the dealer to comply with the provisions of the laws of the state of North Dakota, including this state. This includes the furnishing of a proper and valid certificate of title to the vendee of a mobile home within fifteen days of the sale of such a mobile home, and to the vendee of a travel trailer as defined by section 57-55-01 within fifteen days of the sale of such a travel trailer, and that such. In addition, this includes furnishing to the vendee of a manufactured home within fifteen days of the sale of a manufactured home an affidavit of affixation that is obtained from the county recorder in the county where the real property is affixed, a letter of confirmation, and a bill of sale that includes a statement as to whether there are any liens or encumbrances on the manufactured home. The bond must be filed with the director prior to before the issuance of the license herein provided for under this chapter. Provided, however, that the The aggregate liability of the surety to all such persons for all such losses or damages may, in no event, not exceed the amount of such the bond. Any third party sustaining injury within the terms of the bond may proceed against the principal and surety without making the state a party to any such proceedings proceeding. The bond may be canceled by the surety, as to future liability, by giving written notice by certified mail, addressed to the principal at the address stated in the bond, and to the department. Thirty days after the mailing of the notice, the bond is null and void as to any liability thereafter arising. The surety remains liable, subject to the terms, conditions, and provisions of the bond, until the effective date of the cancellation.

SECTION 5. AMENDMENT. Section 39-18-06 of the North Dakota Century Code is amended and reenacted as follows:

39-18-06. Suspension or revocation of dealer's license.

The department may suspend or revoke any dealer's license for failure of the licensee to comply with any of the laws of the state of North Dakotathis state governing mobile home or manufactured home dealers, or for failure to comply with the reasonable rules and regulations of the department set up under chapter 28-32, but ~~near~~ order suspending or revoking a dealer's license may ~~not~~ be made before a hearing at which the licensee must be given an opportunity to be heard.

SECTION 6. AMENDMENT. Section 39-18-08 of the North Dakota Century Code is amended and reenacted as follows:

39-18-08. Sales by real estate broker or salesperson of used mobile home or manufactured home - Penalty.

Notwithstanding any other provision of law, a person licensed as a real estate broker or salesperson may sell or offer to sell, buy or offer to buy, solicit prospective purchasers of, solicit or obtain listings of, or negotiate the purchase, sale, or

exchange of any used mobile home ~~or manufactured home~~. For the purposes of this section, a used mobile home is a mobile home which has been previously sold by a mobile home dealer ~~and a used manufactured home is a manufactured home that has been previously sold by a manufactured home dealer~~. Any person, including a person licensed as a real estate broker or salesperson, who obtains a listing for the sale or exchange of a used mobile home ~~which or manufactured home that~~ is located in a mobile home park, as defined in section 23-10-01, shall provide notice of ~~such~~the listing within seven days after the listing is obtained, in writing, to the owner or operator of the mobile home park.

~~No~~A real estate broker who engages in the activities authorized by this section may not maintain any place of business where two or more mobile homes are displayed and offered for sale by the broker, unless the broker is also licensed as a mobile home ~~or manufactured home~~ dealer ~~pursuant to~~under this chapter. A person who violates this section is guilty of an infraction.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 308

SENATE BILL NO. 2191

(Senators G. Lee, Oehlke, Sinner)
(Representatives Ruby, Silbernagel, Gruchalla)

AN ACT to amend and reenact section 39-21-06 of the North Dakota Century Code, relating to stop lamps and turn signals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-21-06 of the North Dakota Century Code is amended and reenacted as follows:

39-21-06. Stop lamps and turn signals required on new motor vehicle.

1. ~~No~~ person may not sell or offer for sale, or operate on the highways any motor vehicle registered in this state and manufactured or assembled after January 1, 1964, unless it is equipped with at least two stop lamps ~~meeting that are in good working order when lighted, are mounted on the rear on the same level and as widely spaced laterally as practicable, and meet~~ the requirements of section 39-21-19 and this section, except that a truck tractor manufactured or assembled after January 1, 1964, must be equipped with at least one stop lamp meeting the requirements of section 39-21-19.
2. ~~No~~ person may not sell or offer for sale, or operate on the highways any motor vehicle, trailer, or semitrailer registered in this state and manufactured or assembled after January 1, 1952, unless it is equipped with electrical turn signals in good working order, ~~meeting which meet~~ the requirements of section 39-21-19. This subsection does not apply to any trailer or semitrailer of less than three thousand pounds [1360.78 kilograms] gross weight.
3. A stop lamp on a vehicle must be located at a height of not more than seventy-two inches [182.88 centimeters] nor less than fifteen inches [38.10 centimeters] from the ground.

Approved April 3, 2013

Filed April 3, 2013

CHAPTER 309

HOUSE BILL NO. 1152

(Representatives N. Johnson, Gruchalla, Vigesaa)
(Senators Flakoll, Miller)

AN ACT to amend and reenact subsection 1 of section 39-22-15 of the North Dakota Century Code, relating to motor vehicle dealer records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-22-15 of the North Dakota Century Code is amended and reenacted as follows:

39-22-15. Established place of business - Penalty.

1. A dealer license may not be issued until the applicant furnishes proof satisfactory to the director that the applicant has, does, and will continue to maintain in North Dakota an established place of business adjacent to the primary motor vehicle display lot maintained by the dealer. An established place of business means a permanent enclosed building of at least two hundred fifty square feet [23.22 square meters] either owned, rented, or leased at which a permanent business of bartering, trading, and selling of motor vehicles will be conducted and does not mean a residence, tents, temporary stands, or other temporary quarters. The established place of business and primary motor vehicle display lot must cover at least two thousand five hundred square feet [232.26 square meters] and be located on property zoned or otherwise approved for this purpose by the appropriate zoning authority. The established place of business must be adequately heated and lighted so as to be comfortable for customers and employees and be equipped with standard office equipment necessary for the conduct of the business. All records related to the business, including titles or other documents showing ownership of the vehicles, must be kept and maintained at the established place of business, or if multiple dealer licenses are held by a person, records may be kept and maintained at one established place of business for that person.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 310

SENATE BILL NO. 2043

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact subsection 8 of section 39-24-01, subsection 2 of section 39-29-01, and subsection 1 of section 39-29-09 of the North Dakota Century Code, relating to off-highway vehicles and snowmobiles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 8 of section 39-24-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Snowmobile" means a self-propelled vehicle ~~designed for travel on snow, ice, or a natural terrain and steered by skis or runners intended for off-road travel primarily on snow, having a curb weight of not more than one thousand two hundred pounds [544.31 kilograms], driven by track or tracks in contact with the snow, steered by a ski or skis in contact with the snow, and which is not wider than forty-eight inches [121.92 centimeters]. The term does not include an off-highway vehicle as defined in chapter 39-29 converted to operate on tracks.~~

SECTION 2. AMENDMENT. Subsection 2 of section 39-29-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Off-highway vehicle" means any ~~wheeled~~ motorized vehicle not designed for use on a highway and capable of cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain. An off-highway vehicle must be classified into one of the following categories:
 - a. Class I off-highway vehicle is a vehicle that does not qualify as road capable under chapters 39-21 and 39-27, has a seat or a saddle designed to be straddled by the operator, and has handlebars for steering control of two wheels.
 - b. Class II off-highway vehicle is ~~less than fifty inches [1270.00 millimeters] or less in width, weighs one thousand two hundred pounds [544.31 kilograms] or less, and travels on three or more low-pressure nonhighway tires, has a saddle designed to be straddled by the operator, and has handlebars for steering control; or is sixty-five inches [1651 millimeters] or less in width, weighs two thousand pounds [907.19 kilograms] or less, and travels on four or more nonhighway tires.~~
 - c. Class III off-highway vehicle weighs less than eight thousand pounds, ~~[3628.74 kilograms]; travels on skis, runners, tracks, or four or more tires; has a seat and; has a wheel, handlebars, or t steering for steering control; and is designated for or capable of cross-country on or over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, unless but does not include a vehicle registered by the department under chapter 39-04 or 39-24.~~

SECTION 3. AMENDMENT. Subsection 1 of section 39-29-09 of the North Dakota Century Code is amended and reenacted as follows:

1. An individual may not operate an off-highway vehicle on the roadway, shoulder, or inside bank or slope of any road, street, or highway except as provided in this chapter. Except in emergencies, an individual may not operate an off-highway vehicle within the right of way of any controlled-access highway. An individual may operate a registered off-highway vehicle on a gravel, dirt, or loose surface roadway. An individual may operate a registered off-highway vehicle on a paved highway designated and posted at a speed not exceeding fifty-five miles [88.51 kilometers] per hour. A licensed driver over sixteen years of age may operate a registered class III off-highway vehicle on a paved highway designated and posted at a speed not exceeding sixty-five miles [104.61 kilometers] per hour. An individual may not operate an off-highway vehicle on a paved highway if the vehicle is unable to attain a speed, on a paved level surface, of at least thirty miles [48.28 kilometers] per hour.

Approved April 3, 2013
Filed April 3, 2013

CHAPTER 311

SENATE BILL NO. 2045

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact sections 39-25-01, 39-25-02, 39-25-03, 39-25-04, 39-25-05, 39-25-06, and 39-25-07 of the North Dakota Century Code, relating to commercial driver training schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-25-01 of the North Dakota Century Code is amended and reenacted as follows:

39-25-01. Definitions.

1. "Commercial driver training school" or "school" means a business enterprise conducted by ~~an individual, association, partnership, corporation, or limited liability company~~ a person for the education and training of ~~persons~~ individuals, either practically or theoretically, or both, to operate or drive a motor vehicle ~~vehicles~~, and ~~charging a for which accepts consideration or charges~~ tuition for such services ~~the service~~.
2. "Instructor" means ~~any person~~ an individual, whether acting on that ~~person's~~ individual's own behalf as an operator of a commercial driver training school or for ~~such~~ a school for compensation, who teaches, conducts ~~classes of a class for~~, gives demonstrations to, or supervises practice of, ~~persons~~ an individual learning to operate or drive a motor vehicle ~~vehicles~~.

SECTION 2. AMENDMENT. Section 39-25-02 of the North Dakota Century Code is amended and reenacted as follows:

39-25-02. Duties of ~~superintendent~~ director - Regulations.

1. The ~~superintendent of the state highway patrol~~ director shall adopt and prescribe such regulations concerning the administration and enforcement of this chapter ~~as which~~ are necessary to protect the public. The ~~superintendent~~ director shall inspect the school facilities ~~and~~, equipment of applicants and licensees, and examine applicants for instructor's ~~and examiner's~~ licenses ~~or certifications~~.
2. The ~~superintendent~~ director shall administer and enforce this chapter and shall ~~formulate and promulgate~~ theadopt regulations for ~~its~~ the administration and enforcement of this chapter.

SECTION 3. AMENDMENT. Section 39-25-03 of the North Dakota Century Code is amended and reenacted as follows:

39-25-03. School - License required - Contents of application for license.

1. ~~No~~A commercial driver training school may not be established nor may any existing school continue to operate ~~on or after July 1, 1969,~~ unless ~~such~~the school applies for and obtains from the ~~superintendent~~director a license in the manner and form prescribed by the ~~superintendent~~director.
2. The application for license must include a statement of the location of the school, the equipment, courses of instruction, instructors, previous records of the school and instructors, financial statements, schedule of fees and charges, character and reputation of the operators, insurance, and ~~such~~any other ~~matters~~matter as the ~~superintendent~~director may prescribe for the protection of the public.

SECTION 4. AMENDMENT. Section 39-25-04 of the North Dakota Century Code is amended and reenacted as follows:

39-25-04. Instructor - License required - Contents of application for license.

1. ~~No person~~An individual may not act as an instructor ~~on or after July 1, 1969,~~ unless ~~such person~~the individual applies for and obtains a license in the manner and form prescribed by this chapter.
2. The regulations must state the requirements for an instructor's license, including requirements concerning moral character, physical condition, knowledge of the courses of instruction, motor vehicle laws and safety principles, previous personal and employment records, and ~~such~~any other ~~matters~~matter as the ~~superintendent~~director may prescribe for the protection of the public.

SECTION 5. AMENDMENT. Section 39-25-05 of the North Dakota Century Code is amended and reenacted as follows:

39-25-05. Expiration and renewal of licenses - Fees.

~~All licenses expire~~A license expires on the last day of the calendar year and may be renewed upon application to the ~~superintendent~~director as prescribed by the ~~superintendent's~~director's regulations. Each application for an original or renewal school license must be accompanied by a fee of twenty-five dollars, and each application for an original or renewal instructor's license must be accompanied by a fee of ten dollars. ~~Such~~These fees must be deposited in the state treasury in the state highway fund. ~~No license~~License fees may not be refunded in the event any license is rejected, suspended, or revoked.

SECTION 6. AMENDMENT. Section 39-25-06 of the North Dakota Century Code is amended and reenacted as follows:

39-25-06. Refusal, suspension, or revocation of license.

The ~~superintendent~~director may refuse to issue, or may suspend or revoke a license in any case when the ~~superintendent~~director finds the applicant or licensee has violated any of the provisions of this chapter or the regulations adopted by the ~~superintendent~~director. A suspended or revoked license must be returned to the ~~superintendent~~director by the licensee.

SECTION 7. AMENDMENT. Section 39-25-07 of the North Dakota Century Code is amended and reenacted as follows:

39-25-07. Exclusions - Free instruction - Colleges, universities, and high schools.

This chapter does not apply to any person giving driver training lessons without charge, to employers maintaining driver training schools without charge solely for ~~their~~that employer's employees ~~only~~, nor to ~~schools~~a school or ~~classes~~a class conducted by ~~colleges~~a college, ~~universities~~a university, and ~~high schools~~or a high school for a regularly enrolled full-time or part-time ~~students~~student as a part of a normal program ~~for such institutions~~of the institution.

Approved March 26, 2013

Filed March 27, 2013