

MOTOR VEHICLES

CHAPTER 258

SENATE BILL NO. 2118

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

AN ACT to amend and reenact subsection 4 of section 39-01-15 of the North Dakota Century Code, relating to mobility impaired parking privilege applications.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 39-01-15 of the North Dakota Century Code is amended and reenacted as follows:

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 or electronic statement issued by a qualified physician, physician assistant, chiropractor, or an advanced practice registered 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 or electronic statement from a qualified physician, physician assistant, chiropractor, or an advanced practice registered nurse if the applicant has previously submitted an application containing a certification from a qualified physician, physician assistant, chiropractor, 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, physician assistant's, chiropractor'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, physician assistant, chiropractor, or an advanced practice registered nurse who provides a false statement that an individual is mobility impaired for the purpose of that 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, physician assistant's, chiropractor'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, physician assistant's, chiropractor'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 number 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 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 individual.

Approved March 20, 2015

Filed March 20, 2015

CHAPTER 259

HOUSE BILL NO. 1062

(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

AN ACT to amend and reenact subsection 6 of section 39-03.1-01, sections 39-03.1-10.3 and 39-03.1-11.2, subsection 3 of section 39-03.1-14.1, subsection 1 of section 54-52-05, subsection 3 of section 54-52-17, subsection 1 of section 54-52-17.2, sections 54-52-17.14 and 54-52-28, subsection 1 of section 54-52.1-03, and sections 54-52.1-03.1, 54-52.1-03.4, 54-52.1-18, 54-52.6-09.4, and 54-52.6-21 of the North Dakota Century Code, relating to the highway patrolmen's retirement plan and the public employees retirement system defined benefit plan and defined contribution plan retirement benefits, health insurance plans, life insurance benefits, and employee assistance benefits coverage; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 39-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

6. "Salary" means the actual dollar compensation, excluding any bonus or overtime, or expense allowance, paid to or for a contributor for the contributor's services.

SECTION 2. AMENDMENT. Section 39-03.1-10.3 of the North Dakota Century Code is amended and reenacted as follows:

39-03.1-10.3. Military service under the Uniformed Services Employment and Reemployment Rights Act - Member retirement credit.

A member reemployed under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4333], is entitled to receive retirement credit for the period of qualified military service. The required contribution for the credit, including payment for retiree health benefits, must be made in the same manner and by the same party as would have been made had the employee been continuously employed. If the salary the member would have received during the period of service is not reasonably certain, the member's average rate of compensation during the twelve-month period immediately preceding the member's period of service or, if shorter, the period of employment immediately preceding that period, times the number of months of credit being purchased must be used. Employees must be allowed up to three times the period of military service or five years, whichever is less, to make any required payments. This provision applies to all qualifying periods of military service since October 1, 1994. Effective for years after December 31, 2008, compensation for purposes of Internal Revenue Code section 415 [26 U.S.C. 415], as amended, includes military differential wage payments, as defined in Internal Revenue Code section 3401(h) [26 U.S.C. 3401(h)], as amended. Any payments made by the member to receive qualifying credit inconsistent with this provision must be refunded. Employees shall make application to the employer for credit and provide a DD Form 214 to verify service. After December 31, 2006, if a participating member dies while

performing qualified military service, as defined in section 414(u)(5) of the Internal Revenue Code [26 U.S.C. 414(u)(5)], as amended, the deceased member's beneficiaries are entitled to any death benefits, other than credit for years of service for purposes of benefits, which would have been provided under the plan if the participating member had resumed employment and then terminated employment on account of death. The period of that member's qualified military service is treated as vesting service under the plan.

SECTION 3. AMENDMENT. Section 39-03.1-11.2 of the North Dakota Century Code is amended and reenacted as follows:

39-03.1-11.2. Internal Revenue Code compliance.

The board shall administer the plan in compliance with the following sections of the Internal Revenue Code, as amended, as it applies for governmental plans.

1. Section 415, including the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code.
 - a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislative assembly, must be adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) applies to participating members who have had a separation from employment, but that member's benefit payments may not reflect the adjusted limit prior to January first of the calendar year in which the adjustment applies.
 - b. If a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.
 - c. If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. This reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.

3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

SECTION 4. AMENDMENT. Subsection 3 of section 39-03.1-14.1 of the North Dakota Century Code is amended and reenacted as follows:

3. Pursuant to rules adopted by the board, a member who has service credit in the system and in any of the alternate plans described in subdivision a or b of subsection 1 is entitled to benefits under this chapter. The employee may elect to have benefits calculated using the benefit formula in section 39-03.1-11 under either of the following calculation methods:
 - a. By using the final average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment in the highway patrolmen's retirement systems as calculated in section 39-03.1-11. If the participating member has worked for less than thirty-six months at retirement, the final average salary is the average salary for the total months of employment.
 - b. Using the final average of the highest salary received by the member for any thirty-six months during the last one hundred twenty months of employment as calculated in section 39-03.1-11, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.

The board shall calculate benefits for an employee under this subsection by using only those years of service employment earned under this chapter.

SECTION 5. AMENDMENT. Subsection 1 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

1. Every eligible governmental unit participating political subdivision employee concurring in, at the time the political subdivision joins the plan must so state in writing if the employee concurs in the plan and all future eligible employees of the participating political subdivision are participating members in the plan and must be enrolled in the plan within the first month of employment. Except as otherwise provided by law, every other eligible governmental unit employee of a participating governmental unit is a participating member in the plan and must be enrolled in the plan within the first month of employment. An employee who was not enrolled in the retirement system when eligible to participate must be enrolled immediately upon notice of the employee's eligibility, unless the employee waives in writing the employee's right to participate for the previous time of eligibility, to avoid contributing to the fund for past service. An employee who is eligible for normal retirement who

accepts a retirement benefit under this chapter and who subsequently becomes employed with a participating employer other than the employer with which the employee was employed at the time the employee retired under this chapter may, before ~~reenrolling~~being reenrolled in the retirement plan within the first month of employment, elect to permanently waive future participation in the retirement plan and the retiree health program and maintain that employee's retirement status. An employee making this election is not required to make any future employee contributions to the public employees retirement system nor is the employee's employer required to make any further contributions on behalf of that employee.

¹⁵⁰ **SECTION 6. AMENDMENT.** Subsection 3 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

3. Retirement dates are defined as follows:
 - a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:
 - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
 - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
 - b. Normal retirement date for a national guard security officer or firefighter is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three eligible years of employment ~~as a national guard security officer or firefighter~~.
 - c. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:
 - (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three eligible years of employment ~~as a peace officer or correctional officer~~; or
 - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
 - d. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
 - (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three eligible years of employment ~~as a peace officer~~; or

¹⁵⁰ Section 54-52-17 was also amended by section 27 of Senate Bill No. 2015, chapter 49, section 28 of Senate Bill No. 2015, chapter 49, and section 4 of Senate Bill No. 2102, chapter 424.

- (2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- e. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
- f. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.
- g. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the board or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:
- (1) Became disabled during the period of eligible employment; and
 - (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines that a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services it deems necessary and these payments are appropriated from the retirement fund for those purposes.

SECTION 7. AMENDMENT. Subsection 1 of section 54-52-17.2 of the North Dakota Century Code is amended and reenacted as follows:

1. a. For the purpose of determining eligibility for benefits under this chapter, an employee's years of service credit is the total of the years of service credit

earned in the public employees retirement system and the years of service credit earned in any number of the following:

- (1) The teachers' fund for retirement.
- (2) The highway patrolmen's retirement system.
- (3) The teachers' insurance and annuity association of America - college retirement equities fund (TIAA-CREF), for service credit earned while employed by North Dakota institutions of higher education.

Service credit may not exceed twelve months of credit per year.

- b. Pursuant to rules adopted by the board, an employee who has service credit in the system and in any of the plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter. The benefits of a temporary employee employed after July 31, 2015, must be calculated using the benefit formula in section 54-52-17. A permanent employee or a temporary employee employed before August 1, 2015, may elect to have benefits calculated using the benefit formula in section 54-52-17 under either of the following methods:

- (1) ~~The final average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment in the public employees retirement system as calculated in section 54-52-17.~~ If the participating member has worked for less than thirty-six months at retirement, the final average salary is the average salary for the total months of employment.
- (2) ~~The final average of the highest salary received by the member for any thirty-six consecutive months during the last one hundred twenty months of as calculated in section 54-52-17 for employment with any of the three eligible employers under this subdivision, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.~~

The board shall calculate benefits for an employee under this subsection by using only those years of service credit earned under this chapter.

SECTION 8. AMENDMENT. Section 54-52-17.14 of the North Dakota Century Code is amended and reenacted as follows:

54-52-17.14. Military service under the Uniformed Services Employment and Reemployment Rights Act - Member retirement credit.

A member reemployed under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4333], is entitled to receive retirement credit for the period of qualified military service. The required contribution for the credit, including payment for retiree health benefits, must be made in the same manner and by the same party as would have been made had the employee been continuously employed. If the salary the member would have received during the period of service is not reasonably certain, the member's average rate of compensation during the twelve-month period immediately preceding the member's period of service or, if shorter, the period of employment immediately preceding that period, times the number of months of credit being purchased must be used. Employees must be allowed up to three times the

period of military service or five years, whichever is less, to make any required payments. This provision applies to all qualifying periods of military service since October 1, 1994. Effective for years after December 31, 2008, compensation for purposes of Internal Revenue Code section 415 [26 U.S.C. 415], as amended, includes military differential wage payments, as defined in Internal Revenue Code section 3401(h) [26 U.S.C. 3401(h)], as amended. Any payments made by the member to receive qualifying credit inconsistent with this provision must be refunded. Employees shall make application to the employer for credit and provide a DD Form 214 to verify service. If a participating member dies after December 31, 2006, while performing qualified military service, as defined in section 414(u)(5) [26 U.S.C. 414(u)(5)] of the Internal Revenue Code, as amended, the deceased member's beneficiaries are entitled to any death benefits, other than credit for years of service for purposes of benefits, that would have been provided under the plan if the participating member had resumed employment and then terminated employment on account of death. The period of such member's qualified military service is treated as vesting service under the plan.

SECTION 9. AMENDMENT. Section 54-52-28 of the North Dakota Century Code is amended and reenacted as follows:

54-52-28. Internal Revenue Code compliance.

The board shall administer the plan in compliance with the following sections of the Internal Revenue Code ~~in effect on August 1, 2013, as amended~~, as it applies for governmental plans.

1. Section 415, including the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code.
 - a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislative assembly, must be adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) applies to participating members who have had a separation from employment, but that member's benefit payments may not reflect the adjusted limit prior to January first of the calendar year in which the adjustment applies.
 - b. If a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.
 - c. If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. The reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.

2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

SECTION 10. AMENDMENT. Subsection 1 of section 54-52.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Any eligible employee may be enrolled in the uniform group insurance program created by this chapter by requesting enrollment with the employing department. If an eligible employee does not enroll in the uniform group insurance program at the time of beginning employment, in order to enroll at a later time the eligible employee must meet minimum requirements established by the board to enroll thereafter. An employing department may not require an active eligible employee to request coverage under the uniform group insurance program as a prerequisite to receive the minimum employer-paid life insurance benefits coverage or employee assistance program benefits coverage.

SECTION 11. AMENDMENT. Section 54-52.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-03.1. Certain political subdivisions authorized to join uniform group insurance program - Employer contribution.

Alf eligible under federal law. a political subdivision may extend the benefits of the uniform group insurance program under this chapter to its permanent employees, subject to minimum requirements established by the board and a minimum period of participation of sixty months. If the political subdivision withdraws from participation in the uniform group insurance program, before completing sixty months of participation, unless federal or state laws or rules are modified or interpreted in a way that makes participation by the political subdivision in the uniform group insurance program no longer allowable or appropriate, the political subdivision shall make payment to the board in an amount equal to any expenses incurred in the uniform group insurance program that exceed income received on behalf of the political subdivision's employees as determined under rules adopted by the board. The Garrison Diversion

Conservancy District, and district health units required to participate in the public employees retirement system under section 54-52-02, shall participate in the uniform group insurance program under the same terms and conditions as state agencies. A retiree who has accepted a retirement allowance from a participating political subdivision's retirement plan may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the employee's spouse reaches age sixty-five, upon the receipt of a benefit, when the political subdivision joins the uniform group insurance plan if the retiree was a member of the former plan, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this section, the retiree or surviving spouse must meet the minimum requirements established by the board. Each retiree or surviving spouse shall pay directly to the board the premiums in effect for the coverage then being provided. The board may require documentation that the retiree has accepted a retirement allowance from an eligible retirement plan other than the public employees retirement system.

SECTION 12. AMENDMENT. Section 54-52.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-03.4. Temporary employees and employees on unpaid leave of absence.

A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program if such election is made before January 1, 2015, and if the temporary employee is participating in the uniform group insurance program on January 1, 2015. ~~A temporary employee employed on or after August 1, 2007, is only eligible in order for a temporary employee employed after July 31, 2007, to qualify to participate in the uniform group insurance program if, the employee is must be employed at least twenty hours per week and; must be employed at least twenty weeks each year of employment; must make the election to participate before January 1, 2015; and must be participating in the uniform group insurance program as of January 1, 2015. A to be eligible to participate in the uniform group insurance program, a temporary employee first employed after December 31, 20132014, or any temporary employee not participating in the uniform group insurance program as of January 1, 2015, is eligible to participate in the uniform group insurance program only if the employee meets must meet the definition of a full-time employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)]. The Monthly, the temporary employee or the temporary employee's employer shall pay monthly to the board the premiums in effect for the coverage being provided. In the case of a temporary employee who is an applicable taxpayer as defined in section 36B(c)(1)(A) of the Internal Revenue Code [26 U.S.C. 36B(c)(1)(A)], the temporary employee's required contribution for medical and hospital benefits self-only coverage may not exceed the maximum employee required contribution specified under section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)], and the employer shall pay any difference between the maximum employee required contribution for medical and hospital benefits self-only coverage and the cost of the premiums in effect for this coverage. An employer may pay health or life insurance premiums for a permanent employee on an unpaid leave of absence. A political subdivision, department, board, or agency may make a contribution for coverage under this section.~~

SECTION 13. AMENDMENT. Section 54-52.1-18 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-18. High-deductible health plan alternative with health savings account option.

1. The board shall develop and implement a high-deductible health plan as an alternative to the plan under section ~~54-52.1-06~~54-52.1-02. The high-deductible health plan alternative with a health savings account must be made available to state employees by January 1, 2012. ~~The~~After June 30, 2015, at the board's discretion, the high-deductible health plan alternative may be offered, ~~at the discretion of the board,~~ to political subdivisions ~~after June 30, 2013~~for coverage of political subdivision employees. If a political subdivision elects this high-deductible option the political subdivision may not offer the plan under section 54-52.1-02.
2. Health savings account fees for participating state employees must be paid by the employer. Subject
 - a. Except as provided in subdivision b, subject to the limits of section 223(b) of the Internal Revenue Code [26 U.S.C. 233(b)], the difference between the cost of the single and family premium for eligible state employees under section 54-52.1-06 and the premium for those employees electing to participate under the high-deductible health plan under this section must be deposited in a health savings account for the benefit of each participating employee.
 - b. If the public employees retirement system is unable to establish a health savings account due to the employee's ineligibility under federal or state law or due to failure of the employee to provide necessary information in order to establish the account, the system is not responsible for depositing the health savings account contribution. The member will remain a participant in the high-deductible health plan regardless of whether a health savings account is established.
3. Each new state employee of a participating employer under this section must be provided the opportunity to elect the high-deductible health plan alternative. At least once each biennium, the board shall ~~have~~provide an open enrollment period allowing existing state employees of a participating employer under this section ~~or a political subdivision~~ to change their coverage.

SECTION 14. AMENDMENT. Section 54-52.6-09.4 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-09.4. Military service under the Uniformed Services Employment and Reemployment Rights Act - Member retirement credit.

A member reemployed under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4333], is entitled to receive retirement credit for the period of qualified military service. The required contribution for the credit, including payment for retiree health benefits, must be made in the same manner and by the same party as would have been made had the employee been continuously employed. If the salary the member would have received during the period of service is not reasonably certain, the member's average rate of compensation during the twelve-month period immediately preceding the member's period of service or, if shorter, the period of employment immediately preceding that period, times the number of months of credit being purchased must be used. Employees must be allowed up to three times the period of military service or five years, whichever is less, to make any required

payments. This provision applies to all qualifying periods of military service since October 1, 1994. Effective for years after December 31, 2008, compensation for purposes of Internal Revenue Code section 415 [26 U.S.C. 415], as amended, includes military differential wage payments, as defined in Internal Revenue Code section 3401(h) [26 U.S.C. 3401(h)], as amended. Any payments made by the member to receive qualifying credit inconsistent with this provision must be refunded. Employees shall make application to the employer for credit and provide a DD Form 214 to verify service. After December 31, 2006, if a participating member dies while performing qualified military service, as defined in section 414(u)(5) of the Internal Revenue Code [26 U.S.C. 414(u)(5)], as amended, the deceased member's beneficiaries are entitled to any death benefits, other than credit for years of service for purposes of benefits, which would have been provided under the plan if the participating member had resumed employment and then terminated employment on account of death. The period of that member's qualified military service is treated as vesting service under the plan.

SECTION 15. AMENDMENT. Section 54-52.6-21 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-21. Internal Revenue Code compliance.

The board shall administer the plan in compliance with the following sections of the Internal Revenue Code in effect on August 1, 2013, as amended, as they apply to governmental plans:

1. Section 415, including the defined contribution limitations under section 415(c)(1)(A) and (B) of the Internal Revenue Code and the Treasury Regulations thereunder, which are incorporated herein by reference.
 - a. In accordance with the defined contribution limitations under section 415(c) of the Internal Revenue Code, annual additions (as defined in section 415(c)(2) of the Internal Revenue Code) under this plan may not exceed the limitations set forth in section 415(c)(1)(A) and (B), as adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session.
 - b. If a participating member's aggregate annual additions exceed the defined contribution limitations under section 415(c) of the Internal Revenue Code, the member's annual additions must be reduced to the extent necessary to comply with section 415(c) of the Internal Revenue Code and the Treasury Regulations thereunder.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).

4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

SECTION 16. RETROACTIVE APPLICATION. Sections 2, 8, and 14 are retroactive in application.

Approved March 26, 2015
Filed March 26, 2015

CHAPTER 260

SENATE BILL NO. 2117

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

AN ACT to repeal section 39-04-09.1 of the North Dakota Century Code, relating to Lewis and Clark license plates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 39-04-09.1 of the North Dakota Century Code is repealed.

Approved March 13, 2015
Filed March 13, 2015

CHAPTER 261

SENATE BILL NO. 2142

(Senators Mathern, Dever, Marcellais)
(Representatives Fehr, Wallman, Bellew)

AN ACT to create and enact a new subdivision to subsection 2 of section 39-04-18 of the North Dakota Century Code, relating to a purple heart recipient exemption from motor vehicle registration fees; and to amend and reenact section 39-04-10.10 of the North Dakota Century Code, relating to veterans' number plates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-10.10 of the North Dakota Century Code is amended and reenacted as follows:

39-04-10.10. North Dakota veterans' number plates.

1. The director may issue distinctive number plates to individuals eligible for interment in the North Dakota veterans' cemetery. The director shall issue a number plate under this section upon receiving:
 - a. 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 unless for a plate issued to a veteran who has been awarded the purple heart, then there is not an initial fee; and
 - c. Verification of subsequent payments of an annual surcharge of ten dollars paid to the adjutant general unless for a plate issued to a veteran who has been awarded the purple heart, then there is not an annual surcharge.
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 under subdivisions b and c of subsection 1 to the adjutant general monthly, who then, within ten days of receipt of the funds, shall deposit five dollars of each initial fee in the veterans' cemetery maintenance fund and the ten dollar surcharge shall be divided with five dollars being deposited in the veterans' cemetery trust fund and five dollars being deposited in the veterans' cemetery maintenance fund in the state treasury. Investment of the fund is the responsibility of the state treasurer who shall have full authority to invest the fund only 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. The veterans' cemetery trust fund may accept funds from private and federal sources.

¹⁵¹ **SECTION 2.** A new subdivision to subsection 2 of section 39-04-18 of the North Dakota Century Code is created and enacted as follows:

Motor vehicles not exceeding twenty-six thousand pounds [11793.40 kilograms] registered gross weight owned and operated by a veteran who was awarded the purple heart is entitled to a distinctive license plate issued by the department. This exemption applies to one motor vehicle owned by a veteran who was awarded the purple heart.

Approved March 13, 2015
Filed March 13, 2015

¹⁵¹ Section 39-04-18 was also amended by section 2 of House Bill No. 1360, chapter 262.

CHAPTER 262

HOUSE BILL NO. 1360

(Representatives Meier, Fehr, Karls, Lefor, Owens, Porter, Steiner, Toman, Trottier)
(Senators Carlisle, Oehlke)

AN ACT to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to patriotic number plates; to amend and reenact subdivision j of subsection 2 of section 39-04-18 of the North Dakota Century Code, relating to disabled veteran motor vehicle registration; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-04 of the North Dakota Century Code is created and enacted as follows:

Patriotic number plates.

1. The director shall issue patriotic plates under this section upon receiving:
 - a. Payment of all other fees required under this chapter for registration of a motor vehicle;
 - b. Payment of an initial fee of twenty-five dollars of which twenty dollars is deposited in the highway tax distribution fund and five dollars is deposited in the veterans' postwar trust fund; and
 - c. Payment of an annual surcharge of twenty-five dollars of which ten dollars is deposited in the highway tax distribution fund and fifteen dollars is deposited in the veterans' postwar trust fund.
2. The department shall collect the initial fees and the annual surcharges under this section. Deposits in the veterans' postwar trust fund under this section must be added to the principal of the fund. Investment of the fund is the responsibility of the state treasurer who shall have full authority to invest the fund only in the same manner as the state investment board is authorized to make investments.
3. Patriotic plates must include a flag of the United States decal plate, bald eagle decal plate, or boonie stomper decal plate.

¹⁵² **SECTION 2. AMENDMENT.** Subdivision j of subsection 2 of section 39-04-18 of the North Dakota Century Code is 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

¹⁵² Section 39-04-18 was also amended by section 2 of Senate Bill No. 2142, chapter 261.

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 either a distinctive license plate or a standard plate that does not identify the veteran as a veteran or disabled veteran which is issued by the department. This exemption applies to no more than two such motor vehicles owned by a disabled veteran at any one time. A surviving spouse of a disabled veteran who has not remarried and who is receiving department of veterans' affairs dependency and indemnity compensation retains the exemption of the deceased veteran who qualified under this subdivision for one vehicle.

SECTION 3. EFFECTIVE DATE. This Act becomes effective for the issuance of United States flag and bald eagle plates on July 1, 2017, and for the issuance of boonie stomper plates on August 1, 2016.

Approved April 22, 2015

Filed April 22, 2015

CHAPTER 263

SENATE BILL NO. 2211

(Senators Hogue, Campbell, Klein, Miller)
(Representative Ruby)

AN ACT to amend and reenact subsection 2 of section 39-06.1-06 and section 39-08-20 of the North Dakota Century Code, relating to the offense of driving without liability insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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, 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 39-09-01, a fee of thirty dollars.
 - j. A violation of section 39-09-01.1, a fee of thirty dollars.
 - k. A violation of section 39-10-46 or 39-10-46.1, a fee of one hundred dollars.
 - l. A violation of subsection 1 of section 39-08-20, one hundred fifty dollars for a first violation and three hundred dollars for a second or subsequent violation in three years.

¹⁵³ **SECTION 2. 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 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 office of the court under which the matter will be heard, that person may not be convicted or assessed any administration fee for found in violation of subsection 1.
3. Notwithstanding section 26.1-30-18, a person may be ~~convicted in violation of subsection 1~~ 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 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 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 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 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~~ 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

¹⁵³ Section 39-08-20 was also amended by section 1 of House Bill No. 1391, chapter 269.

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~~ violated 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 March 13, 2015

Filed March 13, 2015

CHAPTER 264

SENATE BILL NO. 2166

(Senators Oehlke, Armstrong)

AN ACT to create and enact paragraph 40 to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to entries against driving records; 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 sections 39-07-09 and 39-21-45.1 of the North Dakota Century Code, relating to authorized procedures for traffic violations, definitions of moving violations, entries against driving records, discretion for release upon promise to appear, and modified vehicles.

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. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.
- 9.8. 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.

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, 39-06-14.1, 39-06-16, 39-08-20, 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, 39-21-45.1, 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~~section 39-21-44, ~~and 39-21-45.1~~, subsections 2 and 3 of section 39-21-46, and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

SECTION 3. Paragraph 40 to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

(40) Driving a modified motor vehicle in violation of section 39-21-45.1, or equivalent ordinance 1 point

SECTION 4. 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	Points Assigned:
Conviction of:	
(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 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) Knowingly driving a modified motor vehicle in violation of section 39-21-45.1, or equivalent ordinance	2 points

(8)	Except as provided in paragraph 9 of knowingly operating an unsafe vehicle in violation of section 39-21-46, or equivalent ordinance	2 points
(9)(8)	Fleeing in a motor vehicle from a peace officer in violation of section 39-10-71, or equivalent ordinance	24 points
(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, or equivalent ordinance	2 points
(11)(10)	Driving in violation of the conditions of an instruction permit	2 points

SECTION 5. AMENDMENT. Section 39-07-09 of the North Dakota Century Code is amended and reenacted as follows:

39-07-09. Offenses under which person halted may not be entitled to release upon promise to appear.

Section 39-07-07 does not apply to a person if:

1. The halting officer has good reason to believe the person guilty of any felony or if the person is halted and charged with an offense listed in section 39-06.1-05 but not listed in subsection 2; or
2. The halting officer, acting within the officer's discretion, determines that it is inadvisable to release the person upon a promise to appear and if the person has been halted and charged with any of the following offenses:
 - a. Reckless driving.
 - b. Driving in excess of speed limitations established by the state or by local authorities in their respective jurisdictions.
 - c. Driving while license or driving privilege is suspended or revoked for violation of section 39-06-42, or an equivalent ordinance.
 - d. ~~Operating a modified vehicle.~~
 - e. Driving without liability insurance in violation of section 39-08-20.
 - f.e. Failing to display a placard or flag, in violation of any rule implementing section 39-21-44, while transporting explosive or hazardous materials.
 - g.f. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.

The halting officer forthwith shall take any person not released upon a promise to appear before the nearest or most accessible magistrate.

SECTION 6. AMENDMENT. Section 39-21-45.1 of the North Dakota Century Code is amended and reenacted as follows:

39-21-45.1. Modification of motor vehicle.

1. ~~Except as otherwise provided in this section, a person may not operate upon a public highway a motor vehicle of a type required to be registered under the laws of this state with a weight of seven thousand pounds [3175.14 kilograms] or less with alterations or changes from the manufacturer's original design of the suspension, steering, or braking system of the motor vehicle. The weight must be computed on the basis of the unmodified and unloaded weight of the motor vehicle and without regard to any ballast that may be placed in the vehicle.~~

~~As to bumpers, motor vehicle height, and permitted modifications, the following requirements also apply:~~

1. ~~The motor vehicle must be equipped with front and rear bumpers.~~
2. ~~The maximum body height permitted for the motor vehicle is forty-two inches [106.68 centimeters]. Measurement of body height is made from a level ground surface to the floor of the cargo area.~~
3. ~~The maximum bumper height permitted is twenty-seven inches [68.58 centimeters]. Measurement of bumper height is made from a level ground surface to the highest point on the bottom of the bumper.~~
4. ~~The~~An individual who operates a registered motor vehicle on a highway may not modify that vehicle may be modified in accordance with the following unless the modification meets the following requirements:
 - a. ~~Any modifying equipment must meet specialty equipment marketing association standards~~any other requirement applicable to a vehicle under chapter 39-21.
 - b. ~~If tires placed on a motor vehicle have a diameter greater than that of the tires on the motor vehicle as manufactured, those tires must comply~~be branded with department of transportation requirementsUnited States department of transportation tire identification number.
 - c. ~~The maximum outside diameter permitted for tires is forty-four inches [111.76 centimeters].~~The maximum body height permitted for a motor vehicle is forty-two inches [106.68 centimeters]. Measurement of body height is made from a level ground surface to the floor of the cargo area.
 - d. ~~A horizontal drop bumper may be used to comply with the bumper height requirement of subsection 3. The horizontal bumper must:~~
 - (1) ~~Be at least three inches [7.62 centimeters] in vertical width;~~
 - (2) ~~Extend the entire horizontal body width; and~~
 - (3) ~~Be horizontal, load bearing, and attached to the vehicle frame to effectively transfer impact when engaged.~~

- e. ~~The maximum lift permitted in the suspension system is four inches [10.16 centimeters].~~
- 5. ~~A person charged with violating this section has the burden of proceeding to show that the modifications are permitted under this section.~~
- 2. An individual may not operate a registered motor vehicle on a highway unless the motor vehicle is equipped with front and rear bumpers. The height of the bumper must not exceed twenty-seven inches [68.58 centimeters] and this measurement is made from a level ground surface to the highest point on the bottom of the bumper. A horizontal drop bumper may be used to comply with this subsection and must be at least three inches [7.62 centimeters] in vertical width; extend the entire horizontal body width; and be horizontal, load bearing, and attached to the vehicle frame to effectively transfer impact when engaged.
- 6.3. Vehicles owned by law enforcement agencies, the military, firefighting agencies, and ambulances may be modified without regard to this section.
- 7.4. The director may adopt rules to implement this section.

Approved April 23, 2015

Filed April 23, 2015

CHAPTER 265

SENATE BILL NO. 2112

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

AN ACT to create and enact a new subsection to section 39-06.1-10 of the North Dakota Century Code, relating to the disqualification of foreign commercial drivers; to amend and reenact section 39-06.2-02 and subsection 1 of section 39-06.2-06 of the North Dakota Century Code, relating to the definitions relating to commercial driver's licenses and to exceptions for commercial driver's licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 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.
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 [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], 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 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 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. "Covered farm vehicle" means a straight truck or articulated vehicle:
- a. Registered in a state with a licensed plate or other designation issued by the state of registration which allows law enforcement officials to identify it as a farm vehicle;
 - b. Operated by the owner or operator of a farm or ranch or an employee or family member of an owner or operator of a farm or ranch;
 - c. Used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch; and
 - d. Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle meeting the requirements of subdivisions a, b, and c of this subsection by a tenant pursuant to a crop share farm lease agreement to transport the landlord's portion of the crops under that agreement.
 - e. Meeting the requirements of subdivisions a, b, c, and d of this subsection:
 - (1) With a gross vehicle weight or gross vehicle weight rating, whichever is greater, of twenty-six thousand one pounds [11793.86 kilograms] or less may utilize the exemptions in 40 CFR 390.39 anywhere in the United States; or
 - (2) With a gross vehicle weight or gross vehicle weight rating, whichever is greater, or more than twenty-six thousand one pounds [11793.86 kilograms] may utilize the exemptions in 40 CFR 390.39 anywhere in the state of registration or across the state lines within one hundred fifty air miles of the farm or ranch with respect to which the vehicle is being operated.

10. "Disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle.
- ~~40-11.~~ "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.
- ~~44-12.~~ "Drive" means to drive, operate, or be in physical control of a motor vehicle.
- ~~42-13.~~ "Driver" means 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.
- ~~43-14.~~ "Driver's license" means a license issued by a state to an individual which authorizes the individual to drive a motor vehicle.
- ~~44-15.~~ "Drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and includes any controlled substance.
- ~~45-16.~~ "Electronic device" includes a cellular telephone, personal digital assistant, pager, computer, or any other device used to input, write, send, receive, or read text.
- ~~46-17.~~ "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 an individual to drive a commercial motor vehicle.
- ~~47-18.~~ "Fatality" means the death of an individual as a result of a motor vehicle accident.
- ~~48-19.~~ "Felony" means any offense under state or federal law which is punishable by death or imprisonment for a term exceeding one year.
20. "Foreign commercial driver" means an individual licensed to operate a commercial motor vehicle by an authority outside the United States or a citizen of a foreign country who operates a commercial motor vehicle in the United States.
- ~~49-21.~~ "Foreign jurisdiction" means any jurisdiction other than a state of the United States.

- 20-22. "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.
- 21-23. "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.
- 22-24. "Imminent hazard" means the existence of a condition ~~that presents a substantial of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood that death, of serious illness, severe personal injury, or death if not discontinued immediately or a condition relating to hazardous materials which presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial~~ endangment 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 endangment.
- 23-25. "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.
- 24-26. "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.
- 25-27. "Noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles not defined by the term commercial motor vehicle.
- 26-28. "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).
- 27-29. "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.
- 28-30. "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 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, endorsement, or commercial learner's permit, for the specific vehicle group being operated or for the passengers or type of cargo being transported;
- 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.

29-31. "State" means a state of the United States or the District of Columbia.

30-32. "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.

34-33. "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. 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.

~~32-34.~~ "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.

~~33-35.~~ "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.

~~34-36.~~ "United States" means the fifty states and the District of Columbia.

~~35-37.~~ "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.

SECTION 2. 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 learner's permit and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, an individual may not drive a commercial motor vehicle on the highways of this state unless the individual holds and is in immediate possession of a commercial driver's license with applicable endorsements valid for the vehicle the 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).
 - d. When the vehicle being driven is a covered farm vehicle as defined in this chapter.

SECTION 3. A new subsection to section 39-06.2-10 of the North Dakota Century Code is created and enacted as follows:

A foreign commercial driver is subject to disqualification under this section.

Approved March 13, 2015

Filed March 13, 2015

CHAPTER 266

HOUSE BILL NO. 1121

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

AN ACT to amend and reenact section 39-06.2-07 of the North Dakota Century Code, relating to commercial driver's license qualification standards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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. An individual may not be issued a commercial driver's license unless that individual is a resident of this state; has passed a knowledge and skills test; ~~including that may include~~ a skills test administered by another state or skill test results electronically submitted 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. The tests must be prescribed and conducted by the director. The applicant shall pay the fee listed in section 39-06.2-19 for each of the tests.
2. The director may authorize third-party testing, if:
 - a. The test is the same as that which would otherwise be administered by this state; and
 - b. The third party has entered an agreement with this state which complies with requirements of 49 CFR part 383.75.
3. 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.
4. A commercial driver's license or commercial learner's permit may not be issued to an individual while the individual is subject to a disqualification from driving a commercial motor vehicle or while the individual's driver's license is suspended, revoked, or canceled in any state. A commercial driver's license may not be issued to an individual who has a commercial driver's license issued by any other state unless the individual first surrenders all licenses from other states. The director shall notify the issuing state of the surrender of the license.
5. 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 learner's permit may be issued to an individual who holds a valid class D operator's license who has passed the vision and written tests required for an equivalent commercial driver's license.
- b. The commercial learner's permit may not be issued for a period to exceed one hundred eighty days. ~~Only one renewal or reissuance may be granted within a two-year period. The commercial learner's permit may be renewed for an additional one hundred eighty days without requiring the individual to retake the knowledge test. After this initial 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 if all allowable permits have been issued, or the individual may retake the knowledge test and be issued another commercial learner's permit valid for one hundred eighty days.~~ The holder of a permit, 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.

Approved March 12, 2015

Filed March 12, 2015

CHAPTER 267

SENATE BILL NO. 2154

(Senators Armstrong, Casper, Hogue)
(Representatives Klemin, Maragos, Schatz)

AN ACT to amend and reenact subsection 5 of section 39-08-01 and section 39-08-01.4 of the North Dakota Century Code, relating to sentencing for driving while under the influence of alcohol or drugs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁵⁴ **SECTION 1. AMENDMENT.** Subsection 5 of section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

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 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 seven years, the sentence must include at least ten days' imprisonment, of which forty-eight hours must be served consecutively; a fine of one thousand five hundred dollars; 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 seven years, the sentence must include at least one hundred twenty days' imprisonment; a fine of at least two thousand dollars; 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.

¹⁵⁴ Section 39-08-01 was also amended by section 6 of Senate Bill No. 2052, chapter 268.

- d. For a fourth or subsequent offense, the sentence must include at least one year and one day's imprisonment; a fine of at least two thousand dollars; 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 imposition of sentence under this section may not be deferred under subsection 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 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 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.
- 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 section.
- 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 begin the court-ordered period of probation. If there is not any court-ordered period of probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation, which and the terms and conditions must include participation in the twenty-four seven sobriety program and any terms and conditions of probation previously imposed by the court. Probation under this subsection 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. Individuals incarcerated under this section subsequent to a second probation revocation are not eligible for release from imprisonment upon the successful completion of treatment.

SECTION 2. 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. An individual convicted under this section must be sentenced in accordance with subsection 5 of section 39-08-01.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 268

SENATE BILL NO. 2052

(Legislative Management)
(Judiciary Committee)

AN ACT to create and enact a new section to chapter 27-20, a new section to chapter 39-08, and a new section to chapter 54-12 of the North Dakota Century Code, relating to participation in the twenty-four seven sobriety program and the use of drug court for driving under the influence offenders; to amend and reenact sections 27-20-10, 27-20-31, 39-06-03, subdivision h of subsection 2 of section 39-06-49, section 39-08-01, subsection 2 of section 39-16-03.1, section 39-20-01, subsection 2 of section 39-20-04, subsections 2 and 3 of section 39-20-05, and section 39-20-15 of the North Dakota Century Code, relating to driving under the influence offenses and participation in the twenty-four seven sobriety and drug court programs; to provide for retroactive application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-20-10 of the North Dakota Century Code is amended and reenacted as follows:

27-20-10. Informal adjustment.

1. Before a petition is filed, the director of juvenile court or other officer of the court designated by it, subject to its direction, may give counsel and advice to the parties and impose conditions for the conduct and control of the child with a view to an informal adjustment if it appears:
 - a. The admitted facts bring the case within the jurisdiction of the court;
 - b. Counsel, advice, and conditions, if any, for the conduct and control of the child without an adjudication would be in the best interest of the public and the child; and
 - c. The child and the child's parents, guardian, or other custodian consent thereto with knowledge that consent is not obligatory.
2. The giving of counsel and advice and any conditions imposed for the conduct and control of the child cannot extend beyond nine months from the day commenced unless extended by the court for an additional period not to exceed six months and does not authorize the detention of the child if not otherwise permitted by this chapter. If the child admits to driving or being in actual physical control of a vehicle in violation of section 39-08-01 or an equivalent ordinance, the child may be required to pay a fine as a condition imposed under this section.
3. An incriminating statement made by a participant to the person giving counsel or advice and in the discussions or conferences incident thereto may not be used against the declarant over objection in any hearing except in a hearing on disposition in a juvenile court proceeding or in a criminal proceeding

against the declarant after conviction for the purpose of a presentence investigation.

4. ~~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.~~

¹⁵⁵ **SECTION 2. AMENDMENT.** Section 27-20-31 of the North Dakota Century Code is amended and reenacted as follows:

27-20-31. Disposition of delinquent child.

If the child is found to be a delinquent child, the court may make any of the following orders of disposition best suited to the child's treatment, rehabilitation, and welfare:

1. Any order authorized by section 27-20-30 for the disposition of a deprived child;
2. Placing the child on probation under the supervision of the director, probation officer, or other appropriate officer of the court or of the court of another state as provided in section 27-20-41 or the director of the county social service board under conditions and limitations the court prescribes;
3. Ordering the child to pay a fine if the delinquent act committed by the child constitutes manslaughter resulting from the operation of a motor vehicle in violation of section 12.1-16-02; negligent homicide in violation of section 12.1-16-03; or driving or being in actual physical control of a vehicle in violation of section 39-08-01, or an equivalent ordinance. The court may suspend the imposition of a fine imposed pursuant to this subsection upon such terms and conditions as the court may determine. Fines collected pursuant to this subsection must be paid into the county treasury for disposition pursuant to section 29-27-02.1;
4. Committing the child to the division of juvenile services or to another state department to which commitment of delinquent or unruly children may be made. When necessary, the commitment order may provide that the child initially be placed in a secure facility;
5. Ordering the child to make monetary restitution to the victim of the offense or to complete a specified number of hours of community service as determined by the court, or both;
6. Ordering the periodic testing for the use of illicit drugs or alcohol pursuant to rules or policies adopted by the supreme court; or
7. Ordering the child's participation in a juvenile drug court program.

¹⁵⁵ Section 27-20-31 was also amended by section 4 of House Bill No. 1119, chapter 230.

- ~~8. 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. A new section to chapter 27-20 of the North Dakota Century Code is created and enacted as follows:

Twenty-four seven sobriety program - Participation.

1. If a child is subject to informal adjustment under section 27-20-10, is found to be delinquent under section 27-20-31, or is found to be unruly under section 27-20-32, the juvenile court shall require the child to participate in the twenty-four seven sobriety program under chapter 54-12 for a period of not less than thirty days:
 - a. If the child is found to have violated section 39-08-01 or equivalent ordinance; or
 - b. 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.
2. If a child is subject to informal adjustment under section 27-20-10 and is required to participate in the twenty-four seven sobriety program, the period of participation may not exceed nine months.
3. If a child required to participate in the twenty-four seven sobriety program under this section fails to comply with program requirements without being excused, the testing site shall notify the juvenile court and refer the child to the juvenile court for further disposition. The child may not be detained or otherwise taken into custody without authorization from the juvenile court.
4. If the juvenile court requires the child to participate in a juvenile drug court program, the juvenile court may waive the participation in the twenty-four seven sobriety program requirements of this section.

SECTION 4. AMENDMENT. Section 39-06-03 of the North Dakota Century Code is amended and reenacted as follows:

39-06-03. No operator's license to certain individuals.

The director may not issue an operator's license:

1. To 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 under section 39-06-05, or a license under section 39-06-17.
2. To an individual whose license has been suspended or revoked in this state or in any other state during the suspension, except under section 39-06.1-03 or 39-06.1-11, or to any person whose license has been revoked, except under sections 39-06-35, 39-06-36, and 39-06.1-11.

3. ~~To an individual who is a habitual drunkard, 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 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 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.
- ~~5.4.~~ To an individual who is required by this chapter to take an examination, unless the individual has successfully passed such examination.
- ~~6.5.~~ To 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 the security or filed the proof.
- ~~7.6.~~ To an individual if the director has good cause to believe that the individual by reason of physical or mental disability would not be able to operate a motor vehicle with safety .
- ~~8.7.~~ To an individual when the director has good cause to believe that the operation of a motor vehicle on the highways by that individual would be inimical to public safety or welfare.

SECTION 5. AMENDMENT. Subdivision h of subsection 2 of section 39-06-49 of the North Dakota Century Code is amended and reenacted as follows:

- h. Reinstatement after suspension is fifty dollars unless the suspension was the result of a suspension under subsection 4, ~~5, or 7.3, 4, or 6~~ 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.

¹⁵⁶ **SECTION 6. 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:

¹⁵⁶ Section 39-08-01 was also amended by section 1 of Senate Bill No. 2154, chapter 267.

- 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
 - (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. If the individual violated subdivisions a, b, c, or d of this subsection and subdivision e of this subsection and the violations arose from the same incident, for purposes of suspension or revocation of an operator's license, the violations are deemed a single violation and the court shall forward to the department of transportation only the conviction for driving under the influence or actual physical control.

2. a. 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.
- b. An individual is not subject to an offense under this section for refusal to submit to an onsite screening test under section 39-20-14 if the person submits to a chemical test under section 39-20-01 or 39-06.2-10.2 for the

same incident. Upon the individual's refusal to submit to an onsite screening test, the police officer shall inform the individual that the individual may remedy the refusal if the individual takes a chemical test under section 39-20-01 or 39-06.2-10.2 for the same incident.

3. An individual violating this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second offense in a seven-year period, of a class A misdemeanor for a third offense in a seven-year period, and of a class C felony for any fourth or subsequent offense ~~regardless of the length of time since the previous offense~~ within a fifteen-year period. The minimum penalty for violating this section is as provided in subsection 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.
4. Upon conviction of a second or subsequent offense within seven years under this section or equivalent ordinance, the court 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 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. 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, or if the offender is participating in the twenty-four seven sobriety program.
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 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 seven years, the sentence must include at least ten days' imprisonment, of which forty-eight hours must be served consecutively; a fine of one thousand five hundred dollars; an order for addiction evaluation by an appropriate licensed addiction treatment program; and at least ~~twelve months~~ three hundred sixty days participation

- in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
- c. For a third offense within seven years, the sentence must include at least one hundred twenty days' imprisonment; a fine of at least two thousand dollars; an order for addiction evaluation by an appropriate licensed addiction treatment program; at least ~~one year's~~three hundred sixty days' supervised probation; and at least three hundred sixty days' 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 fifteen years, the sentence must include at least one year and one day's imprisonment; a fine of at least two thousand dollars; 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 imposition of sentence under this section may not be deferred under subsection 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 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 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.
 - 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 section.
 - 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.
 - j. If the individual has participated in the twenty-four seven sobriety program as a condition of pretrial release or for the purpose of receiving a temporary restricted operator's license under section 39-06.1-11, the sentencing court may give credit for the time the individual has already served on the twenty-four seven sobriety program when determining the amount of time the individual must serve on the twenty-four seven sobriety program for the purposes of probation, if that individual has not violated the twenty-four seven sobriety program before sentencing.
6. As used in subdivisions b and c of subsection 5, 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 and the defendant shall participate in the twenty-four seven sobriety program. The defendant shall defray all costs associated with the electronic home detention. 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. For purposes of this section, the twenty-four seven sobriety program is a condition of probation and a court may not order participation in the program as part of the sentence.

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

Partial suspension of sentence for drug court completion.

1. Notwithstanding section 39-08-01, all but ten days of the minimum mandatory sentence required for a defendant charged with a third or subsequent violation of section 39-08-01 may be suspended on the condition the defendant successfully completes a drug court program approved by the supreme court.

2. For purposes of this section, 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.

SECTION 8. AMENDMENT. Subsection 2 of section 39-16-03.1 of the North Dakota Century Code is amended and reenacted as follows:

2. After the period of suspension ceases, an entry concerning a suspension under subsection ~~4, 5, 6, or 7~~3, 4, 5, or 6 of section 39-06-03 or subsection 2, 5, or 6 of section 39-06-32.

SECTION 9. 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. The law enforcement officer shall determine which of the tests is to be used.
3.
 - a. The law enforcement officer shall 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 directed by the law enforcement officer may result in a revocation for a minimum of one hundred eighty days and up to three years of the individual's driving privileges. ~~The law enforcement officer shall determine which of the tests is to be used.~~
 - b. A test administered under this section is not admissible in any criminal or administrative proceeding to determine a violation of section 39-08-01 or

this chapter if the law enforcement officer fails to inform the individual charged as required under subdivision a.

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 10. AMENDMENT. Subsection 2 of section 39-20-04 of the North Dakota Century Code is amended and reenacted as follows:

2. A person's driving privileges are not subject to revocation ~~under subdivision a of subsection 4~~ 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.

SECTION 11. AMENDMENT. Subsections 2 and 3 of section 39-20-05 of the North Dakota Century Code are amended and reenacted as follows:

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.~~

SECTION 12. AMENDMENT. Section 39-20-15 of the North Dakota Century Code is amended and reenacted as follows:

39-20-15. 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~~fourteen 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 13. A new section to chapter 54-12 of the North Dakota Century Code is created and enacted as follows:

Law enforcement acceptance of department of transportation action.

A law enforcement agency shall accept, the same as if ordered by the court, an individual as part of the twenty-four seven program if the individual provides documentation that the individual will be issued a temporary restricted license by the department of transportation which is conditioned on participation in the twenty-four seven program.

SECTION 14. RETROACTIVE APPLICATION. Subsection 1 of section 39-01-08, as amended by section 6 of this Act, applies retroactively to violations of subdivision a, b, c, or d of subsection 1 of section 39-08-01 and subdivision e of subsection 1 of section 39-08-01 which arose from the same incident and which occurred on or after June 30, 2013.

SECTION 15. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 269

HOUSE BILL NO. 1391

(Representatives Hunskor, Froseth, Hatlestad)
(Senators Murphy, O'Connell)

AN ACT to amend and reenact subsection 5 of section 39-08-20 of the North Dakota Century Code, relating to a certificate of insurance for driving without liability insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁵⁷ **SECTION 1. AMENDMENT.** Subsection 5 of section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

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~~one year 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.

Approved March 31, 2015

Filed March 31, 2015

¹⁵⁷ Section 39-08-20 was also amended by section 2 of Senate Bill No. 2211, chapter 263.

CHAPTER 270

HOUSE BILL NO. 1206

(Representatives Nathe, Karls, Larson)
(Senator Carlisle)

AN ACT to create and enact section 39-08-20.2 of the North Dakota Century Code, relating to special mobile equipment and liability insurance; to amend and reenact subsection 5 of section 39-16-01 of the North Dakota Century Code, relating to motor vehicle financial responsibility; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 39-08-20.2 of the North Dakota Century Code is created and enacted as follows:

39-08-20.2. Special mobile equipment and liability insurance - Report - Penalty.

Special mobile equipment is not subject to the requirement of a motor vehicle liability policy under section 39-08-20. However, special mobile equipment must be covered under a liability policy. Failure to provide satisfactory evidence of liability coverage required under this section within ten days after a police officer has requested evidence of liability coverage is an infraction punishable solely by a fine of one hundred fifty dollars for a first violation and is an infraction punishable solely by a fine of three hundred dollars for a second or subsequent violation in three years. A municipal court or district court shall make a report of a violation of this section to the secretary of state for any special mobile equipment owned or operated by a contractor licensed under chapter 43-07.

SECTION 2. AMENDMENT. Subsection 5 of section 39-16-01 of the North Dakota Century Code is amended and reenacted as follows:

5. "Motor vehicle" includes every self-propelled vehicle, including trailers and semitrailers designed for use with suchthese vehicles. The term does not include special mobile equipment.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 16, 2015
Filed April 16, 2015

CHAPTER 271

SENATE BILL NO. 2248

(Senators Casper, Axness, Oehlke)
(Representatives J. Nelson, Pollert, Schatz)

AN ACT to amend and reenact section 39-10-03.1 of the North Dakota Century Code, relating to the lights displayed by tow trucks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-10-03.1 of the North Dakota Century Code is amended and reenacted as follows:

39-10-03.1. Class B authorized emergency vehicles.

1. The driver of a class B authorized emergency vehicle may:
 - a. Park or stand, irrespective of the provisions of this chapter.
 - b. Exceed the speed limit so long as the driver does not endanger life or property during the time of a local or national disaster.
 - c. Disregard regulations governing direction of movement or turning in specified directions.
2. The exceptions herein granted in this section to a class B authorized emergency vehicle apply only when the authorized emergency vehicle is displaying an amber and white light visible under normal atmospheric conditions for a distance of five hundred feet [152.4 meters] in any direction, and:
 - a. When it is necessary for the authorized emergency vehicle to use these exemptions for the immediate protection of life or property;
 - b. When an authorized emergency vehicle is stopped on a highway for the purpose of performing a duty as required of the driver; or
 - c. When traveling at a speed slower than the normal flow of traffic.

Approved March 30, 2015
Filed March 31, 2015

CHAPTER 272

SENATE BILL NO. 2352

(Senators Oehlke, Rust)

AN ACT to amend and reenact sections 39-10-47 and 39-10-48 of the North Dakota Century Code, relating to vehicles obstructing highways and vehicles illegally parked on highways.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-10-47 of the North Dakota Century Code is amended and reenacted as follows:

39-10-47. Stopping, standing, or parking outside of business or residence districts.

1. ~~Upon any highway outside of a business or residence district no person~~An individual may not stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the any highway when if it is practicable to stop, park, or so leave such the vehicle off such part of said the paved or main-traveled part of the highway, but in every event an. There must be an unobstructed width of the highway of not less than twelve feet [3.66 meters] opposite a standing vehicle ~~must be left for the free passage of other vehicles and a clear view of such any stopped vehicles~~vehicle must be available from a distance of not less than two hundred feet [60.96 meters] in each direction upon such the highway.
2. ~~This~~Unless the vehicle is blocking the highway or is otherwise endangering public safety, this section and sections 39-10-49 and 39-10-50 do not apply to the driver of ~~any~~a vehicle which is disabled while on the paved or main-traveled portion of a highway ~~in such manner and to such extent that it is impossible to avoid, if~~ stopping and temporarily leaving ~~such the~~the disabled vehicle ~~in such position is unavoidable.~~
3. Without the consent of the owner or driver of a vehicle and if a vehicle or any personal property or cargo spilled from the vehicle is blocking the highway or is otherwise endangering public safety, a police officer may:
 - a. Remove the vehicle or cause the vehicle to be removed from the highway; and
 - b. Remove or cause to be removed any personal property or cargo that may have been spilled from the vehicle onto the highway.
4. If reasonable care is used in the removal process, a police officer and the police officer's employing agency, the department of transportation or an employee of the department of transportation, or a political subdivision or employee of a political subdivision authorized by a police officer is not liable in civil damages for loss or damage to any vehicle or to any personal property or cargo that may have spilled from a vehicle that is removed from a highway under this section.

5. The decision and method used to remove a vehicle or any personal property, or cause a vehicle or any personal property to be removed, is a discretionary decision under this section. In the event of a public necessity, a police officer, an employee of the department of transportation, or an employee of a political subdivision authorized by a police officer may take an action that may damage a vehicle or property removed under this section.

SECTION 2. AMENDMENT. Section 39-10-48 of the North Dakota Century Code is amended and reenacted as follows:

39-10-48. Officer authorized to remove illegally stopped vehicle.

1. Whenever any~~If a~~ police officer finds a vehicle standing upon a highway in violation of any of the provisions of section 39-10-47, ~~such~~the officer is hereby authorized to ~~move such~~may remove the vehicle; or require the driver or other person in charge of the vehicle to move the ~~same~~vehicle to a position off the paved or main-traveled part of ~~such~~the highway to a place where the vehicle does not block the highway or otherwise endanger public safety.
2. Whenever any~~If a~~ police officer finds a vehicle unattended upon any highway, bridge, or causeway, or in any tunnel where ~~such~~ and the vehicle constitutes ~~an obstruction to~~may obstruct traffic or otherwise endanger public safety, ~~such~~the officer is hereby authorized to provide for the removal of ~~such~~may have the vehicle moved to the nearest garage or other place of safety a location where it may be securely held.
3. Any~~A~~ police officer is hereby authorized to ~~remove or cause to be removed to the nearest garage or other place of safety~~may remove or cause to be removed any vehicle found upon a highway ~~when~~and move the vehicle to any location where the vehicle may be securely held if:
 - a. A report has been made ~~that such~~the vehicle has been stolen or taken without the consent of its owner;
 - b. The person or persons in charge ~~owner or driver~~ of ~~such~~the vehicle ~~are~~is unable to provide for its custody or removal; or
 - c. The person ~~individual~~ driving or in control of ~~such~~the vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay and taken into custody and another individual is not available to lawfully operate the vehicle.
4. Whenever any authorized law enforcement~~If a police officer finds,~~ on state charitable or penal institution property or on the state capitol grounds, a vehicle standing, stopped, or parked in a dangerous location or in violation of any official traffic-control device prohibiting or restricting the stopping, standing, or parking of any vehicle on state property, the officer shall place a written warning on the vehicle for the first offense and ~~thereafter an authorized traffic citation may be issued~~issue a traffic citation for a subsequent violation. However, ~~no~~a traffic citation may not be issued for a violation of this subsection occurring on the state capitol grounds during a legislative session.
5. A police officer and the police officer's employing agency, the department of transportation or an employee of the department of transportation, or a political subdivision or employee of a political subdivision authorized by a

police officer is not liable in civil damages for loss or damage to any vehicle removed from a highway or state property under this section, so long as reasonable care is used in the removal process.

6. The decision and method used to remove a vehicle or any personal property, or cause a vehicle or any personal property to be removed, is a discretionary decision under this section. In the event of a public necessity, a police officer, an employee of the department of transportation, or an employee of a political subdivision authorized by a police officer may take an action that may damage a vehicle or property removed under this section.

Approved April 8, 2015

Filed April 8, 2015

CHAPTER 273

SENATE BILL NO. 2164

(Senators Larsen, Davison, Hogue)
(Representative Seibel)

AN ACT to amend and reenact subsection 2 of section 39-24-03, subsection 3 of section 39-24-04, and section 39-24-05 of the North Dakota Century Code, relating to snowmobile fees and the state snowmobile fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-24-03 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon receipt of the application and the appropriate fee, the department shall register a snowmobile and assign a registration number and a certificate of registration. The registration number must be at least one and one-half inches [3.81 centimeters] in height and of a reflectorized material and must be securely affixed on each side of the snowmobile in a position as to provide clear legibility for identification. The certificate of registration must include information regarding the make, year, serial number, and name and address of the owner. The fee for registration of each snowmobile must be five dollars for any portion of the registration period and the registration period is for two years beginning October first of each odd-numbered year. The fee for a duplicate or replacement registration number or registration card which is lost, mutilated, or becomes illegible may not exceed five dollars. ~~In addition, in each year that fees are collected for the unsatisfied judgment fund there must be assessed a fee of one dollar per year for each snowmobile registered, which must be placed in the unsatisfied judgment fund.~~ For each snowmobile registered under the provisions of this chapter, there must be assessed a snowmobile trail tax in the amount of ~~thirty-five~~forty-five dollars.

SECTION 2. AMENDMENT. Subsection 3 of section 39-24-04 of the North Dakota Century Code is amended and reenacted as follows:

3. If a snowmobile is exempt from registration under subdivision b or c of subsection 2, the owner is required to purchase an out-of-state public trails and lands access permit received upon payment of a ~~fifteen~~twenty-five dollar per year fee. The permit must be in the operator's possession when that individual is operating the snowmobile within the state. Dealers or other agents authorized by the director of the parks and recreation department who sell out-of-state public trails and lands access permits may retain one dollar of the ~~fifteen~~twenty-five dollar per year fee and the remainder of the fees collected under this subsection must be deposited in the state snowmobile fund.

SECTION 3. AMENDMENT. Section 39-24-05 of the North Dakota Century Code is amended and reenacted as follows:

39-24-05. Disposition of registration fees and trail tax - Transfer from highway tax distribution fund.

Fees from registration of snowmobiles must be deposited with the state treasurer and credited to the highway tax distribution fund. The snowmobile trail tax must be deposited in a state snowmobile fund in the state treasury. Additionally, an amount equal to the tax collected on ~~thirty~~^{thirtyfour} gallons [~~113.56~~^{130.8} liters] of motor vehicle fuel multiplied by the number of collector snowmobiles and snowmobiles registered under this chapter must be transferred annually from the highway tax distribution fund, before allocation of the fund under section 54-27-19, and credited to the state snowmobile fund. The parks and recreation department may, upon appropriation by the legislative assembly, expend from such fund moneys it deems necessary for purposes of administering snowmobile safety programs and establishing and maintaining snowmobile facilities and programs.

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 274

SENATE BILL NO. 2198

(Senators Campbell, Armstrong, Larsen)
(Representatives Damschen, Kasper, Ruby)

AN ACT to amend and reenact section 39-24-09.1 of the North Dakota Century Code, relating to the minimum age for snowmobile operators.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-24-09.1 of the North Dakota Century Code is amended and reenacted as follows:

39-24-09.1. Operation by individuals ~~at least twelve years of age~~ Minimum age.

1. An individual under the age of ten may not operate a snowmobile unless the individual operates the snowmobile on private land. An individual ten or eleven years of age may not operate a snowmobile unless the individual operates the snowmobile on private land or the individual is in the presence of a parent or guardian pursuant to chapter 30.1-27, has completed a snowmobile safety training course as prescribed by the director of the parks and recreation department pursuant to chapter 28-32, and has received the appropriate snowmobile safety certificate issued by the director of the parks and recreation department.
2. An individual twelve years of age and over may not operate a snowmobile unless the individual is in possession of a valid driver's license, operates the snowmobile on private land, or unless the individual has completed a snowmobile safety training course as prescribed by the director of the parks and recreation department pursuant to chapter 28-32 and has received the appropriate snowmobile safety certificate issued by the director of the parks and recreation department of transportation.
3. The failure of an operator to exhibit a snowmobile safety certificate upon demand to any official authorized to enforce this chapter is presumptive evidence that the individual is not the holder of the certificate.
4. Fees collected from each individual receiving certification must be deposited into the snowmobile ~~trail tax~~ fund for purposes of establishing snowmobile safety programs.

Approved March 20, 2015

Filed March 20, 2015

CHAPTER 275

HOUSE BILL NO. 1123

(Transportation Committee)

(At the request of the Department of Transportation)

AN ACT to create and enact a new section to chapter 39-25 and subsection 3 to section 39-25-01 of the North Dakota Century Code, relating to driver training schools and to the definition of a certificate of course completion; and to amend and reenact subsection 2 of section 39-06-01.1, subsection 2 of section 39-06-13, subsection 2 of section 39-25-04, and section 39-25-07 of the North Dakota Century Code, relating to driver education requirements, driver's license examinations, instructors at commercial driver training schools, and driver education schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-06-01.1 of the North Dakota Century Code is amended and reenacted as follows:

2. If an individual has had that individual's license to operate a motor vehicle canceled under subsection 1, the director shall deem that individual to have never have had any license to operate a motor vehicle and may not issue any license to operate a motor vehicle other than an instruction permit or a restricted instruction permit after the completion of any period of suspension or revocation. After the issuance of an instruction permit or restricted instruction permit, the director may not issue any other operator's license to that individual until that individual:
 - a. ~~(1) Completes a course of classroom instruction and a course of behind the wheel instruction acceptable to the director; Meets the requirements of section 39-06-17. The driver education requirement may be met through either~~
 - (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~~ successfully completing a course at an approved commercial driver training school meeting the requirements of chapter 39-25; and
 - b. Satisfies all other requirements that apply to that individual for that operator's license.

SECTION 2. AMENDMENT. Subsection 2 of section 39-06-13 of the North Dakota Century Code is amended and reenacted as follows:

2. The examination must include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle unless waived for an applicant who has successfully passed an actual ability test in

this or another state conducted by a state licensing authority or by a commercial driver training school meeting the driver education requirements prescribed by the director under chapter 39-25. A minor may operate a motor vehicle no matter how owned for the actual ability test.

SECTION 3. Subsection 3 to section 39-25-01 of the North Dakota Century Code is created and enacted as follows:

3. "Certificate of course completion" means documentation signed by one or more driver education programs indicating the driver has met the classroom instruction and behind-the-wheel instruction requirements prescribed by the director.

SECTION 4. A new section to chapter 39-25 of the North Dakota Century Code is created and enacted as follows:

Waiver of skill test.

The director may waive the skill portion of the driver's license examination if the applicant has successfully completed the classroom instruction and behind-the-wheel instruction requirements prescribed by the director. The director shall adopt and prescribe regulations concerning criteria for the classroom instruction and behind-the-wheel instruction requirements. A certificate of course completion must accompany the driver's application as evidence that the applicant for a class D license has satisfactorily completed the classroom instruction and behind-the-wheel instruction requirements prescribed by the director.

SECTION 5. AMENDMENT. Subsection 2 of section 39-25-04 of the North Dakota Century Code is amended and reenacted as follows:

2. The regulations must state the requirements for an instructor's license, including requirements concerning residency, language, moral character, physical condition, knowledge of the courses of instruction, motor vehicle laws and safety principles, previous personal and employment records, and any other matter as the director may prescribe for the protection of the public.

SECTION 6. 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 that employer's employees, nor to a school or a class conducted by a college, a university, or a high school for a regularly enrolled full-time or part-time student as a part of a normal program of the institution, except that a public driver education program may provide a certificate of course completion to be used by a driver to waive the skill portion of the driver's license examination under section 2 of this Act.

Approved March 26, 2015

Filed March 26, 2015

CHAPTER 276

SENATE BILL NO. 2312

(Senators Sinner, Laffen)

AN ACT to create and enact subsection 9 of section 39-29.2-03 and sections 39-29.2-05 and 39-29.2-06 of the North Dakota Century Code, relating to unconventional vehicles; to amend and reenact subsection 3 of section 26.1-40-01, subsection 10 of section 26.1-41-01, subsection 49 of section 39-01-01, subsection 1 of section 39-04-36, subsection 2 of section 39-29.2-01, subsection 5 of section 39-29.2-03, subsection 7 of section 39-29.2-03, and section 39-29.2-04 of the North Dakota Century Code, relating to unconventional vehicles; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 26.1-40-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Policy" means any automobile policy which includes automobile liability coverage, uninsured motorist coverage, underinsured motorist coverage, automobile medical payments coverage, basic or optional excess no-fault benefits, or automobile physical damage coverage, delivered or issued for delivery in this state, insuring as the named insured an individual residing in this state, and under which the insured vehicles designated in the policy are of the following types only:
 - a. A motor vehicle of the private passenger ~~or station wagon~~ type that is not used as a public or livery conveyance, nor rented to others.
 - b. Any four-wheel motor vehicle with a load capacity of one thousand five hundred pounds [680.39 kilograms] or less which is not used in the occupation, profession, or business of the insured, nor used as a public or livery conveyance, nor rented to others.
 - c. Any motorcycle as that term is defined in section 39-01-01 that is not used as a public or livery conveyance, nor rented to others.
 - d. An unconventional vehicle as that term is defined in subsection 2 of section 39-29.2-01 that is not used as a public or livery conveyance, nor rented to others.

"Policy" does not include any policy that has been in effect less than sixty days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy; any policy issued under the North Dakota assigned risk plan; any policy insuring more than six motor vehicles; any policy covering the operation of a garage, automobile sales agency, repair shop, service station, or public parking place; any policy providing insurance only on an excess basis; or any other contract providing insurance to a named insured even though the contract may incidentally provide insurance with respect to such motor vehicles.

SECTION 2. AMENDMENT. Subsection 10 of section 26.1-41-01 of the North Dakota Century Code is amended and reenacted as follows:

10. "Motor vehicle" means a vehicle having more than three load-bearing wheels, of a kind required to be registered under the laws of this state relating to motor vehicles, designed primarily for operation upon the public streets, roads, and highways, and driven by power other than muscular power, and includes a trailer drawn by or attached to such a vehicle. The term does not include an unconventional vehicle defined in subsection 2 of section 39-29.2-01.

SECTION 3. AMENDMENT. Subsection 49 of section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

49. "Motor-powered recreational vehicle" means a motorcycle, unconventional vehicle, or off-highway vehicle as defined in section 39-29-01, or a snowmobile as defined in section 39-24-01.

SECTION 4. AMENDMENT. Subsection 1 of section 39-04-36 of the North Dakota Century Code is amended and reenacted as follows:

1. Whenever the ownership of a vehicle registered under the provisions of this chapter ~~or~~, chapter 39-18, or chapter 39-29.2 is transferred or assigned, the registration of the vehicle expires and the transferor shall remove the number plates.

SECTION 5. AMENDMENT. Subsection 2 of section 39-29.2-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Unconventional vehicle" means a motor vehicle that is designed to travel on at least three wheels in contact with the ground, has an unladen weight of at least three hundred pounds [136.08 kilograms] but less than eight thousand pounds [3628.7 kilograms], has a permanent upright seat ~~or saddle for the driver which is mounted at least twenty-four inches [50.8 centimeters] from the ground~~that does not require the operator to straddle or sit astride it, has a steering device for front wheel steering control, is capable of speeds in excess of sixty-five miles [104.61 kilometers] per hour, complies with equipment listed in chapter 39-21 or 39-27, as appropriate, and has an identifying number. The term does not include motor vehicles that otherwise may be registered under this title.

¹⁵⁸ **SECTION 6. AMENDMENT.** Subsection 5 of section 39-29.2-03 of the North Dakota Century Code is amended and reenacted as follows:

5. The fee for registration of an unconventional vehicle is fifty dollars per year. For a duplicate or replacement registration number plate or registration card that is lost, mutilated, or becomes illegible, the department may charge a fee of not more than five dollars.

¹⁵⁹ **SECTION 7. AMENDMENT.** Subsection 7 of section 39-29.2-03 of the North Dakota Century Code is amended and reenacted as follows:

¹⁵⁸ Section 39-29.2-03 was also amended by section 8 of Senate Bill No. 2312, chapter 276, and section 7 of Senate Bill No. 2312, chapter 276.

¹⁵⁹ Section 39-29.2-03 was also amended by section 8 of Senate Bill No. 2312, chapter 276, and section 6 of Senate Bill No. 2312, chapter 276.

7. The department shall issue a plate in the same manner as a plate is issued to a motorcycle. Whenever the ownership of an unconventional vehicle registered under this chapter is transferred or assigned, the plates must be handled in accordance with subsection 1 of section 39-04-36.

¹⁶⁰ **SECTION 8.** Subsection 9 to section 39-29.2-03 of the North Dakota Century Code is created and enacted as follows:

9. Every unconventional vehicle is subject to the motor vehicle body damage disclosure requirement of section 39-05-17.2.

SECTION 9. AMENDMENT. Section 39-29.2-04 of the North Dakota Century Code is amended and reenacted as follows:

39-29.2-04. Operation of unconventional vehicle.

To operate an unconventional vehicle on a highway, the operator must be a class D licensed driver. An operator may operate an unconventional vehicle on any highway ~~except an access-controlled highway.~~

SECTION 10. Section 39-29.2-05 of the North Dakota Century Code is created and enacted as follows:

39-29.2-05. Equipment.

Operators and passengers in an unconventional vehicle shall comply with seatbelt use laws.

SECTION 11. Section 39-29.2-06 of the North Dakota Century Code is created and enacted as follows:

39-29.2-06. Manufacturer's or distributor's certification.

1. The manufacturer or distributor shall certify that an unconventional vehicle is designed and manufactured for use upon public highways and complies with the rules adopted under this chapter. An individual who manufactures an unconventional vehicle for personal use does not have to meet the certification requirements of this section, but shall comply with the rules adopted under this chapter.
2. The certificate must be incorporated on the manufacturer's statement of origin upon transfer of vehicle ownership.

SECTION 12. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 20, 2015
Filed April 20, 2015

¹⁶⁰ Section 39-29.2-03 was also amended by section 6 of Senate Bill No. 2312, chapter 276, and section 7 of Senate Bill No. 2312, chapter 276.

CHAPTER 277

SENATE BILL NO. 2255

(Senators Casper, Oehlke, Sinner)
(Representatives Delmore, Ruby, Schatz)

AN ACT to amend and reenact subsection 1 of section 39-31-03 and sections 39-31-04, 39-31-06, 39-31-11, 39-31-12, 39-31-13, and 39-31-14 of the North Dakota Century Code, relating to common household goods carriers; and to repeal sections 39-31-05, 39-31-07, 39-31-08, 39-31-09, and 39-31-10 of the North Dakota Century Code, relating to common household goods carriers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-31-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The carrier has obtained ~~the certificate or a~~ household goods carrier permit required by this chapter; and

SECTION 2. AMENDMENT. Section 39-31-04 of the North Dakota Century Code is amended and reenacted as follows:

39-31-04. Regulation of common household goods carriers by the department.

The department may regulate common motor carriers of household goods except for transportation provided wholly within a city in this state or within a distance beyond the corporate limits of a city as determined by the department and:

1. ~~May require the filing of tariffs and schedules; and~~
2. ~~Shall~~ shall supervise the relations between common household goods carriers and the public to comply with the provisions of this chapter.

SECTION 3. AMENDMENT. Section 39-31-06 of the North Dakota Century Code is amended and reenacted as follows:

39-31-06. Household goods carrier - ~~Certificate of public convenience -~~ Temporary Household goods carrier permit - Application.

~~No~~ A common household goods carrier may not operate within this state without having obtained from the department a ~~certificate of public convenience and necessity~~ household goods carrier permit. An application must be upon the form prescribed by the department. The application must contain ~~a financial statement~~ proof of registration with the secretary of state, and either proof of workers compensation insurance coverage or an affidavit of nonemployment. The department shall deny issuing a household goods carrier permit if the applicant submits an incomplete application.

SECTION 4. AMENDMENT. Section 39-31-11 of the North Dakota Century Code is amended and reenacted as follows:

39-31-11. Certificates– Permits - Duration - Transfer.

~~Certificates and Household goods carrier permits issued to carriers by the department under this chapter remain in force subject to this chapter. Those certificates or permits are transferable only upon approval by the department, after notice to and opportunity for comment by all interested parties.~~

SECTION 5. AMENDMENT. Section 39-31-12 of the North Dakota Century Code is amended and reenacted as follows:

39-31-12. Fees - Household goods carrier.

~~Every household goods carrier operating in this state, when applying for a certificate of public convenience and necessity or household goods carrier permit, shall pay a fee of one hundred dollars. The nonrefundable fee for an application for transfer of a certificate of public convenience and necessity household goods carrier permit is one hundred dollars. The annual filing fee for maintaining a household goods carrier permit is thirty-five dollars.~~

SECTION 6. AMENDMENT. Section 39-31-13 of the North Dakota Century Code is amended and reenacted as follows:

39-31-13. Regulations furnished to holder of certificate or permit.

~~The department shall mail each holder of a certificate or household goods carrier permit under this chapter the rules the department adopts to implement this chapter.~~

SECTION 7. AMENDMENT. Section 39-31-14 of the North Dakota Century Code is amended and reenacted as follows:

39-31-14. Insurance required of carrier - Liability of insurer.

~~The department, before granting a certificate household goods carrier permit to any common motor carrier, shall require the owner or operator to procure public liability insurance. The conditions of the liability insurance must guarantee the payment of any loss or damage to property or on account of the death or injury to any person resulting from the negligence of the carrier. The carrier shall file the insurance policy with the department and the policy must be kept in full force. The carrier must provide proof the policy is in full effect annually in a form prescribed by the department. Upon failure of a carrier to maintain insurance required by this section, the department shall cancel the certificate permit. A certificate permit of any company authorized to write liability or property damage insurance in the state, in a form approved by the department and certifying that there is in effect a liability insurance policy required by this section, may be filed instead of the policy.~~

SECTION 8. REPEAL. Sections 39-31-05, 39-31-07, 39-31-08, 39-31-09, and 39-31-10 of the North Dakota Century Code are repealed.

Approved April 8, 2015

Filed April 8, 2015