

Sixty-eighth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2219

Introduced by

Senators Hogue, Clemens, Conley

Representatives Fegley, D. Ruby, Thomas

1 A BILL for an Act to create and enact a new section to chapter 39-06.1 of the North Dakota  
 2 Century Code, relating to civil judgment for nonpayment of statutory fees; to amend and reenact  
 3 section 14-08.1-07, subsection 6 of section 39-06-19, section 39-06-32, subsection 4 of section  
 4 39-06-33, subdivision i of subsection 2 of section 39-06-49, subsection 5 of section 39-06.1-11,  
 5 and subsection 2 of section 39-16-03.1 of the North Dakota Century Code, relating to  
 6 suspension of an operator's license for nonpayment of child support, the issuance of a  
 7 temporary permit, authority to suspend an operator's license for failure to pay a fine, hearings  
 8 on suspension or revocation of license, license reinstatement fees, temporary restricted  
 9 licenses, and entries on driver's record abstract; to provide for a legislative management study;  
 10 and to provide a penalty.

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

12 **SECTION 1. AMENDMENT.** Section 14-08.1-07 of the North Dakota Century Code is  
 13 amended and reenacted as follows:

14 **14-08.1-07. Suspension of motor vehicle operator's license for ~~nonpayment of child-~~**  
 15 **~~support or failure to obey subpoena.~~**

16 When considering a contempt citation against a child support obligor who is in arrears in  
 17 child support in an amount greater than three times the monthly child support obligation and the  
 18 obligor is not current in a court-established plan to repay the unpaid child support arrears, or  
 19 ~~when an individual~~ has failed, after receiving appropriate notice, to comply with a subpoena  
 20 relating to a paternity or child support matter unrelated to nonpayment of child support, the court  
 21 shall determine whether the ~~obligor~~individual has a motor vehicle operator's license issued  
 22 under chapter 39-06. The court may restrict or suspend a motor vehicle operator's license  
 23 issued by the state which is held by the ~~obligor~~individual. The court shall notify the department  
 24 of transportation of the court's decision to restrict or suspend an ~~obligor's~~individual's motor

1 vehicle operator's license. An appeal by an ~~obligor~~individual who has had a motor vehicle  
2 operator's license restricted or suspended under this section is an appeal from the court's order  
3 and may not be appealed to the department of transportation. Except for statistical purposes, an  
4 entry on the driving record or abstract of a restriction or suspension under this section after the  
5 restriction or suspension ceases may not be available to the public other than by order of a  
6 court of competent jurisdiction. A suspension under this section is not subject to the financial  
7 responsibility reporting requirements.

8 **SECTION 2. AMENDMENT.** Subsection 6 of section 39-06-19 of the North Dakota Century  
9 Code is amended and reenacted as follows:

10 6. The director may not renew an operator's license if the license has been suspended  
11 under section 14-08.1-07. Upon the recommendation of the court, the director may  
12 issue a temporary permit to the licensee under section 39-06.1-11 if the temporary  
13 permit is necessary for the licensee to work and the court has determined the licensee  
14 is making a good-faith effort to comply with the ~~child support orders~~subpoena or child  
15 support matter.

16 **SECTION 3. AMENDMENT.** Section 39-06-32 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **39-06-32. Authority to suspend licenses.**

19 4. The director may suspend the operator's license of an individual, after hearing, upon  
20 proof by a fair preponderance of the evidence, that any of the following apply to the licensee:

21 ~~a.1.~~ Commission of an offense for which mandatory revocation of license is required upon  
22 conviction.

23 ~~b.2.~~ Incompetence to drive a motor vehicle.

24 ~~e.3.~~ Unlawful or fraudulent use of an operator's license.

25 ~~d.4.~~ Refusal to submit to an implied consent chemical test on an Indian reservation or in  
26 another state. For purposes of this subsection, the specific requirements for  
27 establishing a refusal used on the Indian reservation or in the other state may not be  
28 considered, and photostatic copies of the records of the other jurisdiction's driver's  
29 licensing authority are sufficient evidence of the refusal whether those copies are  
30 certified. The suspension must be for the same length of time as the revocation in  
31 section 39-20-04. If the refusal arose out of an arrest or stop of an individual while

1 operating a commercial motor vehicle, the period of suspension must be the same as  
2 the period of revocation provided in section 39-06.2-10.

3 ~~2.5.~~ Failure, as shown by the certificate of the court, to ~~pay a fine or~~ serve any other  
4 sentence as ordered by a court upon conviction for any criminal traffic offense.

5 ~~3.6.~~ Failure, as shown by the certificate of the court, to appear in court or post and forfeit  
6 bond after signing a promise to appear, if signing is required by law, in violation of  
7 section 39-06.1-04, willful violation of a written promise to appear in court, in violation  
8 of section 39-07-08, or violation of equivalent ordinances or laws in another  
9 jurisdiction. Upon resolution by the operator of the underlying cause for a suspension  
10 under this subsection, as shown by the certificate of the court, the director shall record  
11 the suspension separately on the driving record. This separate record is not available  
12 to the public.

13 ~~4.7.~~ An administrative decision on an Indian reservation or in another state that the  
14 licensee's privilege to drive on that Indian reservation or in that state is suspended or  
15 revoked because of a violation of that Indian reservation's or state's law forbidding  
16 motor vehicle operation with an alcohol concentration of at least eight one-hundredths  
17 of one percent by weight or, with respect to a person under twenty-one years of age,  
18 an alcohol concentration of at least two one-hundredths of one percent by weight, or  
19 because of a violation of that Indian reservation's or state's law forbidding the driving  
20 or being in actual physical control of a commercial motor vehicle while having an  
21 alcohol concentration of at least four one-hundredths of one percent by weight. The  
22 specific requirements for establishing the violation on the Indian reservation or in the  
23 other state may not be considered and certified copies of the records of the Indian  
24 reservation's or other state's driver's licensing authority are sufficient evidence of the  
25 violation. The suspension must be for the same duration as the suspension in section  
26 39-20-04.1, if the violation does not involve a commercial motor vehicle. If the violation  
27 involves a commercial motor vehicle, the period of suspension must be the same as  
28 the period of suspension provided in section 39-06.2-10. For purposes of this section,  
29 originals, photostatic copies, or electronic transmissions of the records of the driver's  
30 licensing or other authority of the other jurisdiction are sufficient evidence whether they  
31 are certified copies.

1     ~~5-8.~~ Conviction of an offense under this title and it appears from the director's records that  
2             the offense contributed to causing an accident which resulted in death or serious  
3             personal injury or serious property damage. A suspension may not be imposed if the  
4             individual has been sanctioned for the same offense under section 39-06-31.

5             **SECTION 4. AMENDMENT.** Subsection 4 of section 39-06-33 of the North Dakota Century  
6 Code is amended and reenacted as follows:

7             4. If a suspension is ordered under ~~subdivision b~~ of subsection 42 of section 39-06-32,  
8             the notice must include a specific description of the conditions which led to the  
9             conclusion that the licensee is incompetent to drive a motor vehicle. If during the  
10            suspension those conditions dissipate, the licensee may request another hearing on  
11            the issue of competence to drive a motor vehicle. The hearing must be held in the  
12            manner required under subsections 2 and 3 for the original suspension.

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

15            i. Reinstatement after suspension is fifty dollars unless the suspension was the  
16            result of a suspension under subsection 3, 4, or 6 of section 39-06-03 or  
17            ~~subdivision b~~ of subsection 42 of section 39-06-32, then the fee is twenty-five  
18            dollars, or unless the suspension was a result of a violation under section  
19            39-08-01 or chapter 39-20, then the fee is one hundred dollars.

20            **SECTION 6. AMENDMENT.** Subsection 5 of section 39-06.1-11 of the North Dakota  
21 Century Code is amended and reenacted as follows:

22            5. The director may not issue a temporary restricted license for a period of license  
23            revocation or suspension imposed under section 39-06-31. A temporary restricted  
24            license may be issued for suspensions ordered under subsection 47 of section  
25            39-06-32 if it could have been issued had the suspension resulted from in-state  
26            conduct.

27            **SECTION 7.** A new section to chapter 39-06.1 of the North Dakota Century Code is created  
28 and enacted as follows:

**Failure to pay statutory fees - Civil judgment.**

1. In addition to the penalty provided under section 39-06.1-04 for failure to pay a statutory fee, the court shall enter a civil judgment against the individual for the nonpayment.
2. The judgment must be docketed by the clerk of court in the judgment docket maintained pursuant to section 28-20-13 in the same manner in which a civil judgment for money is docketed.
3. The civil judgment may not exceed the amount of the statutory fee owed, plus interest, administrative fees, and any applicable penalty amounts, giving credit for any amount paid.

**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 3, 4, 5, or 6 of section 39-06-03 or subsection ~~2, 5, or 6~~ or 8 of section 39-06-32.

**SECTION 9. LEGISLATIVE MANAGEMENT STUDY - DRIVER'S LICENSE**

**SUSPENSIONS FOR NONPAYMENT OF CHILD SUPPORT.** During the 2023-24 interim, the legislative management shall consider studying the desirability and feasibility of repealing the department of health and human services' ability to suspend motor vehicle licenses for nonpayment of child support. The study must include an assessment of possible alternative mechanisms that could be implemented to encourage compliance with an existing child support payment plan. The study may include input from the supreme court, the attorney general, and the department of health and human services. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.