

of the practices referred to herein without disclosing therein that the practice offered is to be performed in said school by students under the supervision of a licensed instructor or instructors and it is expressly provided that no school of hairdressing or cosmetology shall make any charge for any services or material which is covered and included within the practice of hairdressing or cosmetology, and which may be rendered by any student in such school except the actual cost of material used. Any violation of this Subdivision shall authorize the Board, after notice and hearing, and it shall be its duty upon determining as a fact that this Subdivision has been violated, to forthwith cancel the certificate granted to said school.

§ 2. AMENDMENT.] That Section 28 of Chapter 157 of the Session Laws of North Dakota for 1927 be, and the same is hereby amended and re-enacted to read as follows:

§ 28. PENALTIES.] Any person who shall practice any of the occupations, maintain a school or act in any capacity wherein a certificate is required, without a certificate provided in this Act, shall be guilty of a misdemeanor and shall be fined not less than \$25.00 and not more than \$100.00 or shall be imprisoned for no more than 30 days or both.

Approved March 17, 1937.

HIGHWAYS

CHAPTER 138

H. B. No. 312—(Frosaker, by Request)

FEEDER ROADS

An Act authorizing the State Highway Commissioner to administer feeder or other roads for which Federal appropriations are made.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. The State Highway Commissioner is hereby authorized to receive any appropriations now made, or which may hereafter be made, by the Congress of the United States to be applied to secondary or feeder roads and other roads or streets not on the State Highway System and may carry out the intent and purpose of such appropriations, to the same extent that he may now legally cooperate on roads which are on the State Highway System.

§ 2. No State funds shall be expended for feeder roads or other roads not on the State Highway System except for the necessary administrative costs and except for such work as is reimburs-

able from Federal, County, or funds from other organizations or governmental departments, for which reimbursement arrangements have been made. After completion of any such cooperative construction, all authority and control over roads off the State Highway System shall be returned to the local authorities under whom control was previously vested.

§ 3. All Acts and parts of Acts in so far as they are in conflict herewith are hereby repealed.

Approved March 9, 1937.

CHAPTER 139

H. B. No. 2—(Byrne and Schauss)
Special Session

HIGHWAY PATROL AND DRIVERS LICENSES

An Act providing for the appointment of a Superintendent of Divisions of Highway Safety and Patrol and Patrolmen and employees; providing for operator's and chauffeur's license and the fees to be paid therefor and providing for the taking of registration and operator's and chauffeur's license applications, providing for the repeal of all conflicting Acts, declaring an emergency and providing for penalties for violation of this Act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DEFINITIONS.] The following words: "Motor Vehicle," "Farm Tractor," "Owner," "Operator," "Non-Resident," "Public Highways," as used in this Act shall be interpreted to have the meanings usually ascribed to them, except on those instances where the context clearly indicates a different meaning.

§ 2. Except as provided by Section 3 of this Act no person shall operate or drive a motor vehicle upon any highway of this State after the taking effect of this Act without first obtaining a license for that purpose as provided in this Act. No such license shall be issued to any person under the age of sixteen years except as hereinafter provided, or to any person who is physically or mentally incompetent to safely operate a motor vehicle upon the public highway, or to anyone of the following:

(a) Any person whose driver's license has been withheld or revoked either by this State or any other State of the Union during the period in which such withholding or revocation shall be in full force and effect. In case of revocation this disqualification shall terminate one year after such revocation except when such revocation is stayed or suspended during such year, in which event the period of any such stay or suspension shall be added to the year.

(b) Any person who is a habitual drunkard or is addicted to the use of narcotic drugs.

(c) Any person who has been adjudged insane or an idiot, imbecile, epileptic, or feeble-minded and who has not at the time of his application for the license required herein, been declared restored to competency by judicial decree, or released from a hospital for the insane or feeble-minded upon the certificate of the superintendent that such person is competent.

(d) Any person who is afflicted with or suffering from a mental or physical disability or disease such as to prevent such person from exercising reasonable control of a motor vehicle; providing that deafness in itself shall not be considered as a disqualification.

(e) Any person who shall have been found negligent in the operation of a motor vehicle in any civil action for damages growing out of an accident and against whom a judgment shall have been rendered on account thereof, unless such person shall have furnished and filed proof of ability to respond in damages for any injury to person or property thereafter occurring. Such disqualification shall continue for a period of two years from the date of such judgment. Such disqualification shall not apply during any period during which the enforcement of such judgment shall be legally stayed, but the period of any stay shall be added to the said two year period of disqualification.

(f) Any person who shall have been three times convicted of a misdemeanor under this Act or the laws of the State relating to highways during the two-year period covered by any single license.

§ 3. EXEMPTIONS.] Every person driving or operating a road roller, road machinery, or any farm tractor or implement, temporarily drawn or moved upon the highways, and every person in the service of the army, navy, marine corps of the United States, when furnished a driver's permit and operating an official motor vehicle in such service shall be exempt from license under this Act.

§ 4. LICENSE TO PERSONS UNDER SIXTEEN YEARS.] Upon the recommendation in writing of the County Judge of the County wherein the child resides, an automobile driver's license may be issued to any child, otherwise qualified, who is less than sixteen years of age but more than fourteen years of age. A license issued pursuant to this action shall be a different color than the licenses issued to persons who are sixteen years of age or over, so as to be readily distinguishable from such licenses, and shall have stamped across the face thereof the words, "Not good after (the date when such child becomes sixteen years of age.)" No County Judge shall make a recommendation for the issuance of an automobile driver's license to a child who is less than sixteen years of age unless such child, accompanied by his parent or guardian, shall appear in person before such Judge and shall satisfy the Judge that such child is at least fourteen years of age, that he appears to be qualified to safely operate an automobile, and that it is necessary for such child to drive his

parent's or guardian's automobile without being accompanied by some person over the age of sixteen. The parent or guardian shall at all times be responsible for any and all damages growing out of the negligent operation of a motor vehicle by any such child. The provisions of this Section shall not authorize such child to drive a motorcycle, commercial truck, motor bus, or taxi-cab.

§ 5. APPLICANT'S EXAMINATION.] In case any application for a motor vehicle operator's license, or other information coming to the attention of the State Highway Department of the State of North Dakota, under whose supervision and control this Act shall be carried out, suggests or indicates that the applicant might be lacking in qualifications necessary to entitle him to such license, such applicant may be required to undergo an examination under oath, and such physical, mental, and driving tests as may be necessary to determine his qualifications; to facilitate such examination and tests, the State Highway Commissioner may require any Chief of Police or Sheriff to conduct the same in accordance with such reasonable rules as such State Highway Department may prescribe. The officer conducting such examination shall forward a report of the same on a blank furnished by said Highway Department, with a recommendation as to whether or not an operator's license should be issued to the applicant. When said State Highway Department shall require a physical examination the cost of same shall be paid by the applicant, but no physician shall charge more than \$2.00 for such examination.

In such examinations the persons to be examined shall furnish the motor vehicle to be used in connection with the examination and shall appear at such time and place in the city or village nearest the resident as the State Highway Commissioner shall designate.

§ 6. APPLICATION FOR LICENSE. FILING. FORM. CONTENTS.] Applications for motor vehicle operator's license shall be filed with the State Highway Commissioner upon blanks furnished under his authority and shall be verified before a person authorized to administer oaths. The form of such application shall be determined by the State Highway Commissioner and shall include the name, age, color of eyes, color of hair, complexion, sex, height, weight, race, residence, and business address and occupation of the applicant and also state whether the applicant has been licensed as an operator of a motor vehicle before, and if so by what State and whether or not such license has ever been revoked, and if so the date and cause of such revocation; applicant shall further state the previous experience of the applicant in operating an automobile, whether or not the applicant has ever been adjudged insane, an idiot, imbecile, epileptic, or feeble-minded, and whether at the time of the application the applicant has been declared to have been restored to competency by a judicial decree or released from a hospital for the insane or feeble-minded upon a certificate of the superintendent that such person is competent, or whether the applicant is suffering from any

physical or mental disability or disease and if so, the nature and extent thereof, giving the names and addresses of the physicians then or theretofore in attendance upon the applicant. If the applicant has been declared restored to competency by a judicial decree, a certified copy of such decree shall be attached to such application, or if the applicant has been released from a hospital for the insane or feeble-minded upon the certificate of the superintendent that such person is competent, a certified copy of such certificate shall accompany the application.

The application shall state such other and further information as the State Highway Commissioner may require, including all the liability insurance, if any, and name of same, which applicant carried, or by which he will be protected if the license is issued, and what accidents he has previously had and in what amount and manner and by whom the same have been compensated or settled, and if not paid for or settled, the reasons therefor, and such further details as to previous accidents and compensation or lack of compensation for results of same as may be requested by the Highway Commissioner.

§ 7. LICENSE FEE.] The fee for such operator's license shall be the sum of fifty (50¢) cents for the head of the family and shall be for each current term of two calendar years, or part thereof, and shall be renewable at the beginning of each term. For each additional member of the family who operate the family motor vehicle, the fee shall be twenty-five cents for a period of two years. Applicants who are not the head of a family and who are over the age of twenty-one shall be required to pay a fifty cent fee for such two year period. When application is made after a revocation or suspension of a former license the same fee shall again be paid as though the application were being made for the original license. All driver's licenses issued under the provisions of Chapter 175 of the 1935 Session Laws of the State of North Dakota shall become invalid.

In the event of the loss or destruction of such operator's license card the person to whom it was issued may obtain a duplicate thereof by filing an application with the State Highway Department and by paying a twenty-five cent fee. Whenever a motor vehicle operator's license card becomes worn or mutilated to such an extent that it is not legible but is not wholly destroyed or lost, the holder of such card shall immediately apply to the said State Highway Department for a duplicate and forward the said fee of twenty-five cents, and a duplicate will be issued.

§ 8. LICENSE CARD. USE.] The State Highway Department shall assign a number to each motor vehicle operator's license and keep proper record of all licenses issued, which record shall be open to public inspection. A license card shall be issued to each licensee in the form of a triple license card issued by the State Highway Department and shall contain the name and postoffice address of, the dis-

tinguishing number assigned thereto, and a brief description of the licensee for the purpose of identification. Upon the receipt of such card, the licensee shall endorse his or her name thereon in ink in the space provided for that purpose and such license shall not be valid until such card is so endorsed. Such card shall be carried at all times by the licensee when operating a motor vehicle upon the public highways of this State and shall be submitted for examination to any public officer upon demand. For the purpose of verification any officer may require the licensee to write his signature in the presence of such officer. Upon change of Post Office address by the licensee he shall immediately endorse his new address on the back of his license card and notify in writing the State Highway Department of such change.

§ 9. STATEMENT BY MAGISTRATE AS TO AN OFFENSE.] That any magistrate upon finding any licensee guilty of any misdemeanor under this Act or the laws of this State relating to highways shall detach one of the three license cards and forward same immediately to the State Highway Commissioner with a statement of the true facts of the offense. Any Magistrate who shall fail to comply with this Act shall be guilty of a misdemeanor.

§ 10. FOREIGN LICENSES AND THE RIGHT TO OPERATE A MOTOR VEHICLE WITHIN THE STATE.] A non-resident who has been duly licensed as an operator or chauffeur under a law requiring the licensing of operators or chauffeurs in his home State or province, and which license shall still be in full force and effect and which has not been suspended or revoked, and which he has in his immediate possession, such license shall be permitted, without examination or possessing a license as provided under this Section, to drive a motor vehicle upon the highways of this State except as hereafter provided. It shall be unlawful for any non-resident whose home State or Province does not require the licensing of operators, and who has not been licensed as an operator in his home State to operate any motor vehicle upon any highway in this State without first obtaining a driver's license, except that any such non-resident non-licensed, who is over the age of sixteen years, and who is the owner of a motor vehicle which has been duly registered for the current year in the State or Province of which the owner is a resident, may operate such motor vehicle upon the highways of this State for a period of not more than thirty days in any calendar year without making application for or obtaining a driver's license under this Section.

Provided, however, that such non-resident must have in his possession while so driving, an official certificate showing the lawful registry of the motor vehicle in his possession and may be required at any time or place to prove the lawful possession or the right to operate such vehicle and to establish his proper identity.

Any non-resident or other person whose license or privilege to operate a motor vehicle has been suspended or revoked shall not op-

rate a motor vehicle in this State during the period of such suspension or within one year after the date of such revocation.

§ 11. FALSE STATEMENT PENALTY.] Any person convicted of making a false statement in the application for license under this Act shall have committed a misdemeanor and be subject to the maximum penalty thereof and his or her license shall immediately be revoked for a period of two years from the date of such revocation.

§ 12. STATE HIGHWAY COMMISSIONER TO REVOKE LICENSES.] The State Highway Commissioner shall forthwith revoke the license of any person and require that the certificate of license be returned to him upon receiving a record of the conviction of such person for any of the following offenses:

(a) Manslaughter or homicide on any degree arising out of the operation of a motor vehicle.

(b) Driving a motor vehicle while under the influence of intoxicating liquor or narcotic drugs.

(c) Any crime punishable as a felony under the motor vehicle laws of this State, or any other felony in the commission of which a motor vehicle was used.

(d) Conviction or forfeiture of bail upon two charges of reckless driving within the preceding twelve months.

(e) Conviction of a driver of a motor vehicle involved in an accident resulting in the death or injury of another person upon a charge of failing to stop and disclose his identity at the scene of the accident.

(f) The State Highway Commissioner upon receiving the record of conviction of any person upon a charge of operating a motor vehicle while the license of such person is suspended, shall immediately extend the period of such first suspension for an additional six months, and such person, driving a motor vehicle upon the highways of this State, while such license is suspended or revoked, shall be guilty of a misdemeanor.

(g) Any person who shall have been convicted of three misdemeanors for violation of this Act or of any law of this State relating to highways during the two-year period covered by any single license.

§ 13. COURT REVIEW OF ACTION OR STATE HIGHWAY COMMISSIONER.] The action of the State Highway Commissioner in refusing to issue a license or in declaring a suspension or revocation of the driver's license of any person under the provisions of this Act shall be subject to review by action in any District Court with the right to appeal as in other civil actions, and if it shall appear that the action of the State Highway Commissioner has been unlawful or unreasonable, such action shall be reversed with direction requiring action which shall be according to law.

§ 14. MAY APPLY FOR NEW LICENSE.] Any person whose license has been revoked under the provisions of this Act, may, after one year from the date of such revocation, petition any District Court for an order directing the State Highway Commissioner to issue a certificate of license to him. The District Court is hereby given jurisdiction and it shall be the duty of such Court to set the matter for hearing upon ten days' written notice to the said Highway Commissioner. At the hearing the Court shall take testimony and examine witnesses to determine whether the petition is entitled to such license and shall make its order granting or denying the petition. If the petition is granted the said Highway Commissioner, upon receipt of a certified copy of the Order of the Court, shall issue such license. If the petition is denied no renewal of such petition shall be made for a period of one year from the date of the order of the Court.

§ 15. FEES TO BE PAID INTO STATE TREASURY—HOW APPROPRIATED AND DISTRIBUTED.] All moneys received under the provisions of this Act shall be paid monthly into the State Treasury and the same is hereby appropriated out of the Treasury, into a special fund to be used by the Motor Patrol branch of the State Highway Department, or so much thereof as shall be necessary for the branch of the Department, and the balance to flow into the General Highway Fund.

§ 16. COMMISSIONER TO APPOINT LOCAL AGENTS.] The Highway Commissioner shall appoint local agents for the purpose of issuing and causing to be issued, driver's licenses in each village and municipality of his respective County, and his compensation and expenses shall be as hereafter provided in Section 17 of this Act.

§ 17. ADMINISTRATION OF EXPENSES.] The driver's license division of the State Highway Department shall pay such local agents five cents per license remitted, for expense and compensation for the extra work and expense as local agent under this Act.

§ 18. ESTABLISHMENT OF DIVISION OF HIGHWAY SAFETY AND POLICE PATROL.] The Commissioner is authorized and empowered to appoint a State Highway Patrol Superintendent and an Assistant Highway Patrol Superintendent. Said Superintendent and Assistant Superintendent shall hold office during the pleasure of the Commissioner and it shall be their duty to enforce the provisions of the laws of the State of North Dakota relating to the protection and use of the highways in this State, and the operating of motor and other vehicles upon said highways, the jurisdiction of said officers shall extend throughout the State.

(b) The State Highway Patrol Superintendent, with the approval of the Highway Commissioner, is hereby authorized and empowered to appoint not more than fifteen patrolmen, who shall constitute the Division of Highway Safety and Patrol, who shall hold office during the pleasure of the Superintendent and whose duty

it shall be to enforce the provisions of the laws of the State of North Dakota relating to the protection and use of the highways in this State. The Superintendent shall require that the Division of Highway Safety and Patrol properly patrol the highways of this State and co-operate with sheriffs and police in enforcing the laws regulating the operation of vehicles and the use of highways, provided further that all sheriffs, peace officers, and the local authorities are required to enforce the provisions of this Act.

(c) OATH AND BOND.] Every person appointed as Superintendent of the Division of Highway Safety and Patrol, or Assistant Superintendent, or as a Highway Patrolman shall, before entering upon his duties subscribe to an oath, and sign and file a bond with the Commissioner, the bond to run to the State of North Dakota; said oath and bond to be in such form and in such amounts as shall be prescribed by the Commissioner.

(d) SALARIES, WAGES AND EXPENSES.] All salaries, wages and other expenses of the Division of Highway Safety and Patrol shall be paid by the State Auditor and State Treasurer out of the "Patrol Fund" herein provided, upon vouchers as now required by law for the payment of all state expenses, duly approved by the Commissioner and the Superintendent, and audited and allowed by the State Auditing Board. The salary of the Superintendent of the Division of Highway Safety and Patrol shall not exceed \$2000. per annum, and the salary of the Assistant Superintendent shall not exceed \$1,800. per annum, the salary of each highway patrolman shall be fixed by the Superintendent at not to exceed \$125. per month, and shall be paid monthly out of the funds in the "Patrol Fund," provided the salary of any appointee as patrolman shall not exceed \$100. per month for the first six months of employment.

(e) QUALIFICATIONS OF HIGHWAY PATROLMEN.] All members of the Division of Highway Safety and Patrol shall not be less than twenty-five nor more than forty-seven years old on the date of their appointment. They shall, before being qualified to appointment, be required to pass such physical examination and such other qualification test as may be determined by the Superintendent, be of good moral character and of temperate habits, have been citizens of the United States and of the State of North Dakota for not less than two years prior to their appointment. For appointment preference shall be given at all times to honorably discharged veterans and all appointments shall be made without regard to any political party affiliation of the applicant.

(f) POLICE AUTHORITY OF THE DIVISION OF HIGHWAY SAFETY AND PATROL.] The Commissioner and such officers and inspectors of the department as he shall designate and all members of the Division of Highway Safety and Patrol shall have the power:

(1) Of peace officers for the purpose of endorsing the pro-

visions of this Act and of any other law regulating the operation of vehicles or the use of the highways.

(2) To make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this Act or other law regulating the operation of vehicles or the use of the highways.

(3) At all times to direct all traffic in conformance with law and in the event of a fire or other emergency or to expedite traffic or to insure safety to direct traffic as conditions may require notwithstanding the provisions of law.

(4) When on duty, upon reasonable belief that any vehicle is being operated in violation of any provision of this Act or of any other law regulating the operation of vehicles to require the driver thereof to stop and exhibit his driver's license and the registration card issued for the vehicle and submit to an inspection of such vehicle, the registration plates and registration card thereon or to an inspection and test of the equipment of such vehicle.

(5) To inspect any vehicle of a type required to be registered hereunder in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the title and registration thereof.

(6) To serve all warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways.

(7) To investigate traffic accidents and secure testimony of witnesses or of persons involved.

(8) To investigate reported thefts of motor vehicles, trailers, and semi-trailers.

(9) That said patrolmen shall be required to inspect all motor vehicles as to compliance with the provisions of law relating to the issuance and possession of motor vehicle licenses and to fully cooperate with the Motor Vehicle Registrar in carrying out all of the laws relating to motor vehicle licenses, and to take over and perform the duties now performed by motor vehicle license inspectors under the Regulatory Department.

(10) To take applications for driver's licenses without making charge therefor.

(g) (a) The Commissioner shall issue to each member of the division of Highway Safety and Patrol a badge of authority with the seal of this State in the center thereof, the word "North Dakota Highway Patrol" encircling said seal and below the designation of the position held by the member to whom issued. Every such badge shall be serial numbered or each member shall otherwise display a distinctive serial number.

(b) Neither the Commissioner nor any other person shall issue

any such badge to any person who is not a duly appointed and acting member of said division.

(c) Any person who without authority wears the badge of a member of said division, or a badge of similar design which would tend to deceive anyone, is guilty of a misdemeanor.

(d) Any person who impersonates a member of said division or other officer or employees of the department with intent to deceive anyone, or who without authority wears a uniform likely to be confused with the official uniform of any such officer, is guilty of a misdemeanor.

§ 19. If any of this Act shall be held to be unconstitutional such unconstitutionality shall not be held to affect the remaining parts of this Act.

§ 20. INCONSISTENT ACTS REPEALED.] All Acts or parts of Acts inconsistent with the provisions of this Act are hereby repealed.

§ 21. PENALTIES.] Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and for first conviction thereof shall be punished by a fine of not more than \$100.00 or imprisonment for not more than thirty days; for a second and subsequent convictions within one year thereafter by a fine of not more than \$200.00 or by imprisonment for not more than ninety days, or by both such fine or imprisonment.

§ 22. EMERGENCY.] This Act is declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 11, 1937.

CHAPTER 140

H. B. No. 55—(Frazier)

RESTRICTIONS STATE HIGHWAYS

An Act to amend and re-enact Section 41, Chapter 162, Session Laws of North Dakota 1927 as amended and re-enacted by Chapter 141, Session Laws of North Dakota 1929, authorizing the State Highway Commissioner or such of his employees as he may designate and local authorities to prohibit or restrict the use of highways under the jurisdiction of such officers, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 41 of Chapter 162 of the Session Laws of North Dakota 1927 as amended and re-enacted by Chapter 141, Session Laws of North Dakota 1929 is hereby amended and re-enacted to read as follows:

§ 41. WHEN LOCAL AUTHORITIES MAY RESTRICT THE RIGHT TO USE HIGHWAYS.] The State Highway Commissioner (or such of his employees as he may authorize,) and local authorities by order, or ordinance or resolution may prohibit the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles, for a total period not to exceed sixty days in any one calendar year, when operated upon any highway under the jurisdiction of and for the maintenance of which such officers are responsible whenever any said highway by reason of deterioration, rain, snow or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced. Such officers making such order or enacting any such ordinance or resolution shall erect or cause to be erected and maintained signs designating the provisions of the order, or ordinance, or resolution at each end of that portion of any highway affected thereby and the order or ordinance or resolution shall not be effective until or unless such signs are erected and maintained. The State Highway Commissioner or such of his employees as he may authorize and local authorities, by ordinance or resolution, may also prohibit the operation of trucks or other commercial vehicles, or impose limitations as to weight thereof on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.

§ 2. This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 10, 1937.

(NOTE: Emergency failed in Senate.)

HOLIDAYS

CHAPTER 141

H. B. No. 207

LEGAL HOLIDAYS

An Act to amend and re-enact Section 7297 of the Supplement to the 1913 Compiled Laws of North Dakota, as amended by Chapter 165 of the Session Laws of North Dakota for 1927 relating to holidays.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 7297 of the Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 165 of the Session Laws of North Dakota for 1927, is hereby amended and re-enacted to read as follows: