

MOTOR VEHICLES

CHAPTER 291

S. B. No. 356

(Melland, Coughlin, Robinson, Meschke, Lips, Nething,)
(Christensen, Ringsak, Holand, Sorlie, Trenbeath)

REGULATION OF OUTDOOR ADVERTISING ADJACENT TO HIGHWAYS

AN ACT

Declaring public policy with regard to the regulation of outdoor advertising and the restoration, preservation and enhancement of scenic beauty; prohibiting outdoor advertising within six hundred and sixty feet of the nearest edge of the right-of-way for the state highway system and providing for exceptions therefrom; providing for the removal or acquisition of certain outdoor advertising rights and the payment of compensation therefor; establishing a highway corridor board and prescribing other duties and powers; providing for zoning for land use adjacent to the state highway system; authorizing the review of property rights previously acquired for outdoor advertising purposes and the reconveyance of such rights when determined to be inconsistent with the purposes of this Act; authorizing the promulgation of rules and regulations by the highway corridor board consistent with the requirements of sections 131 and 319 of title 23, United States Code and the enforcement thereof; providing for public hearings and appeals to the district court; to amend subsection 37 of section 24-01-01.1 of the North Dakota Century Code and declaring an emergency.

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

§ 1. Declaration of Policy.) It is hereby declared to be in the public interest reasonably to regulate advertising devices along the highways hereinafter specified while, at the same time, recognizing that both the convenience of travel and the interests of the economy as a whole require a reasonable freedom to advertise. It is the intention of the legislature in this Act to provide a statutory basis for the reasonable regulation, but not the prohibition, of outdoor advertising through zoning principles and standards consistent with the public policy relating to the areas adjacent to the state highway system pursuant to title 23, United States Code, section 131 and section 319 and rules and regulations promulgated thereunder. It is further declared to be in the public interest to review all rights now acquired by the state of North Dakota for the use and benefit of the state highway department pertaining to the right and control over the erection, location or maintenance of billboards, signs or any form of advertising adjacent to the state

highway system, to determine and designate such areas adjacent to the state highway system as are necessary for the restoration, preservation and enhancement of scenic beauty and to vacate to the owner such property rights acquired in areas not so determined and designated.

§ 2. Definitions.)

1. "Commissioner"—commissioner shall mean the North Dakota state highway commissioner or his authorized agents.
2. "Outdoor advertising"—outdoor advertising means a sign, display or device of any kind or character including statuary, erected or maintained for outdoor advertising purposes, upon which any poster, bill, printing, painting or other advertisement of any kind whatsoever may be placed for advertising purposes and shall include but not be limited to any card, cloth, paper, metal, painted or wooden sign of any character placed for outdoor advertising purposes, on or affixed to the ground or any tree, wall, bush, rock, fence, building, structure or thing, either privately or publicly owned. The terms sign, display, or device comprehend all forms of outdoor advertising and the use of one such term in this Act includes all forms of outdoor advertising.
3. "State highway system" shall mean the state highway system as defined in section 24-01-01.1(42) of the North Dakota Century Code.
4. "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.
5. "Maintain" means to exist.
6. "Board" shall mean the highway corridor board.

§ 3. Limitations of Outdoor Advertising.) Subject to the provisions of this Act, no sign shall, after January 1, 1968, be erected or maintained within six hundred and sixty feet from the nearest edge of the right-of-way and visible from the main traveled way of any highway which is a part of the state highway system in this state except the following:

1. Official signs and notices, directional signs and notices, which shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historic attractions and outdoor recreational areas subject to the national standards to be promulgated by the secretary of transportation.

2. Signs advertising the sale or lease of property upon which they are located.
3. Signs specifically advertising activities conducted, services rendered, goods sold, stored, produced or mined, or the name of the enterprise on the property and which are within fifty feet of the area used for the purpose advertised and upon which they are located.
4. Signs in areas which are now or hereafter zoned industrial, commercial, or the like by the board as provided in this Act.
5. Signs in unzoned commercial or industrial areas, which now or hereafter qualify as such, pursuant to the agreement between the board and the secretary of transportation according to title 23, United States Code, section 131.
6. Signs relocated by reason of the construction or reconstruction of the state highway system.
7. Official highway signs within interstate rights-of-way giving specific information for the traveling public pursuant to title 23, United States Code, section 131(f) and the rules and regulations promulgated thereunder.
8. Signs calling attention to the location of buried utility lines.

§ 4. Removal of Signs.) Any sign lawfully in existence along the state highway system on the effective date of this Act which is in conformity with this Act and the regulations established by the board shall not be required to be removed until sixty months have elapsed following the date of its erection; provided, however, that no such sign shall be required to be removed before July 1, 1970. Any sign lawfully in existence along the state highway system on the effective date of this Act which does not conform to this Act or the regulations established by the board shall not be required to be removed until the end of the fifth year after it becomes nonconforming unless acquired pursuant to section 5.

§ 5. Compensation for Removal of Signs.) The state highway commissioner is directed to acquire by purchase, gift, condemnation or exchange, signs lawfully erected which do not conform to this Act or the regulations established by the board. Owners of advertising structures, signs, displays or devices acquired by the commissioner pursuant to this section, and the owners of the land upon which such displays are located shall be paid just compensation for the reasonable

damages, if any, suffered by the reason of such removal before the end of the fifth year after such displays become nonconforming.

Despite any contrary provision of this Act, no sign shall be required to be removed unless at the time of removal there are sufficient funds, from whatever source, appropriated and available to this state with which to pay the just compensation required under this section, and unless at such time the federal funds allotted to this state under title 23, United States Code, section 131 or section 319 have been appropriated and are available to this state; provided, however, that signs erected after October 22, 1965, and prior to December 3, 1965, which are required to be removed to be in conformity with title 23, United States Code, section 131 of the rules and regulations promulgated thereunder the commissioner may acquire such signs in the manner provided herein and expend state highway funds for their acquisition.

§ 6. Highway Corridor Board—Members.) There is hereby established, to serve as an agency of the state and to perform the functions conferred upon it in this Act the highway corridor board, hereinafter referred to as the board. The board shall be composed of the following five members: the North Dakota state highway commissioner or his authorized agent; the director of the economic development commission or his authorized agent; the commissioner of agriculture or his authorized agent; a representative of the North Dakota outdoor advertising association to be designated by its president and to serve a term of four years; a representative of the North Dakota motel association designated by its president to serve a term of two years. At the expiration of the term of any member appointed to the board, his successor shall be appointed for a term of four years.

§ 7. Organization of the Board.) The permanent chairman of the board shall be the state highway commissioner or his duly authorized agent and the board may elect such other officers as it may deem appropriate from its membership. The majority of the board in meeting duly assembled, may perform and exercise all the duties and powers devolving on the board. Staffing for the committee shall be furnished by the state highway department, which shall also be responsible for furnishing it such other supplies and equipment as may be required. The state highway department shall furnish the committee with such maps, charts, plats, photographs and all other information and assistance as may be required by it, relating to the affected areas and its duties as hereinafter set forth. The board shall meet upon call of the chairman or upon written notice of two members of the board.

§ 8.) The appointed members of the board shall receive as compensation for their services the sum of twenty dollars for each day's attendance at its meetings and shall be compensated for meals, lodging and travel at the same rate and in the same manner as other state officials. Vouchers required to be submitted prior to reimbursement shall be approved by the chairman of the board and any and all compensation specified in this section shall be paid out of funds derived from the fees for permits issued for outdoor advertising structures. Any and all funds derived from the fees or permits not expended for the expenses of the board shall be placed in the highway fund for the purpose of enforcing this chapter and should there be a deficit for the purpose of enforcing this chapter or to meet expenses of the board highway funds may be expended to meet such deficit.

§ 9. Duties and Powers of the Board.) The board shall perform the following functions:

1. For the purpose of promoting the public health, safety, welfare, convenience, enjoyment and recreational value of the public highways, to protect the public investment in the state highway system and to preserve the natural beauty of lands bordering on the state highway system, the board may establish one or more zoning districts in the areas lying within six hundred and sixty feet of the nearest edge of the right-of-way of any highway which is a part of the state highway system and shall enact suitable regulations to carry out the purposes of this Act. These regulations shall be uniform in each district, but the regulations in one district may differ from those in other districts. No regulation or restriction, however, shall prohibit or prevent the use of land or buildings for farming or any of the normal incidents of farming.
2. These regulations shall be made in accordance with the comprehensive plan and design for any and all of the following purposes:
 - a. To protect and guide the development of nonurban areas.
 - b. To regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, the height, number of stories and size of buildings and structures, percentage of lot that may be occupied, size of courts, yards and other open spaces, the density of the population, and the location and use of buildings, structures, and the land for trade, industry, residence, or other purposes adjacent to highways outside of municipalities.

- c. To designate tracts of land adjacent to the state highway system which are necessary for the restoration, preservation and enhancement of scenic beauty.
 - d. To regulate the erection, construction or placing of any sign, display or device within six hundred and sixty feet of the nearest edge of the right-of-way and to adopt standards relating to size, lighting and spacing thereof in conformity with section 131 of title 23, United States Code, provided said regulations are not more restrictive than those provided thereunder.
 - e. To establish permits authorizing the erection, construction, placement, replacement, repair and maintenance of any outdoor sign, display, or device, which are within six hundred and sixty feet of the nearest edge of the right-of-way and visible from any place on the main traveled way of the state highway system; to establish a fee schedule for such permits and to prescribe regulations for the issuance thereof by the commissioner.
 - f. To determine unzoned commercial or unzoned industrial areas along the state highway system by agreement between the board and the secretary of transportation of the United States pursuant to title 23, United States Code, section 131.
3. The board shall review all rights now acquired by the state of North Dakota for the use and benefit of the state highway department pertaining to the right and control over the erection, location or maintenance of billboards, signs or any form of advertising within six hundred and sixty feet from the nearest edge of the right-of-way of the state highway system and should the board determine that such rights previously acquired are not necessary to accomplish the purpose of this Act then such rights shall be vacated pursuant to section 24-01-28 of the North Dakota Century Code.
4. The board shall designate which tracts of land are necessary for the restoration, preservation and enhancement of scenic beauty adjacent to the state highway system. Said board shall accurately describe such areas and file such designation with the North Dakota state highway department. The commissioner shall acquire, improve and maintain said tracts of land the board deems necessary for the restoration, preservation and enhancement of scenic beauty adjacent to the state

highway system and said tracts of land may be beyond six hundred and sixty feet of the nearest edge of the right-of-way.

The interest in any land directed to be acquired and maintained under this section may be a fee simple or any lesser interest, as determined by the board to be reasonably necessary to accomplish the purposes of this section. Such acquisition may be by gift, purchase, exchange or condemnation under the right and power of eminent domain in the same manner that the commissioner may acquire right-of-way for construction, reconstruction, widening, alteration, changing, locating, relocating, aligning, realigning or maintaining a state highway.

§ 10. Rules and Regulations Have the Force and Effect of Law.) All determinations, rules, regulations, and promulgations by the board shall be filed with the commissioner and shall have the force and effect of law upon such filing.

§ 11. Unlawful Advertising.) Any advertising sign which violates the provisions of this Act or the regulations adopted by the board is hereby declared to be illegal. The state highway commissioner shall give thirty days' notice, by certified mail, to the owner thereof to remove the same if it is a prohibited sign, or cause it to conform to regulations promulgated by the board if it is an authorized sign. If the owner fails to act within thirty days as required in the notice or if the commissioner is unable to ascertain the ownership of the sign then such sign shall be deemed abandoned and the commissioner may remove such sign and to this end he may enter upon private property for the purpose of removing such sign without liability for his actions.

§ 12. Enforcement.) The state highway commissioner shall enforce the provisions of this Act and the regulations adopted by the board through the remedy of injunction or other appropriate legal proceedings, and shall not act except through such proceedings except as set forth in section 11. Neither the state highway commissioner nor any other agency nor political subdivision of this state shall by plantings obstruct the view, or in any other way interfere with the effectiveness of any sign legally in place under the provisions of this Act and the regulations adopted by the board.

§ 13. Hearings.) The board may propose resolutions, rules or regulations to be promulgated and shall hold public hearings thereon in the state capitol. Such proposed resolutions, rules or regulations to be promulgated shall be published in the official county newspaper of the county wherein tracts

of land which will be affected by such resolution, rule or regulation are located once each week for three consecutive weeks giving notice of the time, place and purpose of the hearings so that parties in interest and citizens shall have an opportunity to be heard.

§ 14. Publication of Resolutions, Rules or Regulations.) Following the public hearings, the board may adopt the proposed resolutions, rules or regulations with such changes as it may deem advisable. Forthwith at the adoption of any such resolution, rule or regulation, the board shall cause the same to be published for three consecutive weeks in the official newspaper of the county wherein tracts of land which will be affected by such resolutions, rules or regulations are located. Proof of such publication shall be filed in the office of the county auditor of the county wherein tracts of land which will be affected by such resolutions, rules or regulations are located and with the North Dakota state highway commissioner and thereupon the resolutions, rules or regulations shall take effect. Any such resolutions, rules or regulations may, from time to time, be amended or repealed by the board upon like proceedings as in the case of the adoption of resolutions, rules or regulations. Upon adoption of any resolutions, rules or regulations hereunder, the county auditor shall cause notice thereof filed with the register of deeds.

§ 15. Appeals to District Court.) Any person, or persons, jointly and severally, aggrieved by a decision of the board under this chapter, may appeal therefrom to the district court and to the supreme court in accordance with sections 28-32-15 through 28-32-21 inclusive, provided, however, that no other sections in chapter 28-32 shall be applicable to any proceedings of the board.

§ 16. Repeals.) All state laws and regulations promulgated thereunder governing outdoor advertising adjacent to the state highway system which are inconsistent herewith are hereby repealed.

§ 17. Severability Clause.) It is hereby declared to be the controlling legislative intent that if any provision of this Act or its application to any person be held invalid, the remainder of the Act and its application to others shall not be affected thereby.

§ 18. Amendment.) Subsection 37 of section 24-01-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37. "Right-of-way" shall mean a general term denoting land, property, or interest therein, acquired for or

devoted to highway purposes and shall include, but not be limited to publicly owned and controlled rest and recreation areas, sanitary facilities reasonably necessary to accommodate the traveling public, and tracts of land necessary for the restoration, preservation and enhancement of scenic beauty adjacent to the state highway system.

§ 19. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 28, 1967.

CHAPTER 292

S. B. No. 44

(Forkner, Holand, Luick)

(From LRC Study)

REGULATION OF OPERATORS' LICENSES

AN ACT

To create and enact sections 39-01-01.1 and 39-06-33.1 of the North Dakota Century Code, providing for a declaration of legislative intent and the authority to suspend licenses for convictions of traffic violations resulting in the death or personal injury of another or serious property damage, and to provide the commissioner with the authority to suspend the licenses of juveniles, the courts with the authority to recognize out-of-state revocations and cancellations, the state toxicologist with the authority to perform blood tests on traffic fatalities and providing an appropriation therefor, and to amend and reenact subsections 2 and 9 of section 39-06-03, sections 39-06-04, 39-06-14, 39-06-19, 39-06-23, 39-06-24, 39-06-29, 39-06-30, 39-06-31, 39-06-32, 39-06-33, 39-06-37, 39-06-38, 39-06-39, and subsection 7 of section 39-06-40 of the North Dakota Century Code, relating to the issuance, suspension, expiration, renewal, and revocation of operator licenses and instructional permits and judicial proceedings relating thereto, and to repeal section 39-06-15 of the North Dakota Century Code, relating to appointments by the commissioner of agents to issue driver licenses.

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

§ 1.) Section 39-01-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-01-01.1. Declaration of Legislative Intent.) The legislature in adopting title 39 recognized that the development of a modern and integrated highway system which is so essential to safe and efficient highway transportation represents a large

investment of public funds. To ensure maximum public benefits from such investment, authority has been vested in appropriate agencies of government for the establishment, construction, maintenance, and operation of needed road facilities, within the limits of funds made available.

Additionally, the legislature recognizes that other functions of government, established pursuant to title 39 to govern the ownership and use of motor vehicles, also are supported by public funds and render important public services which contribute to the safe and efficient use of roads and streets. The responsibilities of state government include such functions as vehicle registration and titling, driver licensing, financial responsibility, police traffic supervision, accident investigation and reporting, and use of accident records, traffic operations, and similar functions conducted under motor vehicle laws affecting motor vehicles and their use.

In fulfilling these responsibilities, the legislature recognizes the necessity that individual prerogatives be considered secondary to the general welfare and so it is expected that the officials will adopt such reasonable policies, procedures, rules, and regulations as may be necessary, within the authority granted by law, and in so doing shall make appropriate use of recommended standards developed by recognized official groups to ensure a desirable level of uniformity throughout the state and with other states. Such uniformity is especially important in the use and application of uniform signs, signals, and markings.

It is expected, further, that the officials will cooperate with each other where such cooperation is essential, and not otherwise prescribed by law. Moreover, there is also need for more effective coordination of activities among all branches and levels of government in carrying out their respective traffic safety responsibilities, including the governor's office, the state legislature and city councils, the administrative, enforcement, and judicial officials of the state and its political subdivisions. In all matters of mutual concern, and where appropriate, cooperation is also encouraged among state officials, officials of other states and the federal government, and other responsible groups, both public and private.

Highway transportation is a dynamic force in our society and is influenced by new developments and changing public needs. To keep abreast of foreseeable adjustments, it is expected that the officials will engage in such research and planning as may be necessary and as may be provided for in this title. Such efforts should be conducted in cooperation with all interested public and private groups, and directed towards

the development of realistic traffic accident prevention programs to guide legislative decision and enlist public support in meeting immediate and potential needs.

In keeping with the policies herein enunciated, it is the intent of the legislature to equip each function with the necessary authority to maintain an adequate level of performance in all functions concerned with the ownership and use of motor vehicles, as they are established in title 39, consistent with the expanding needs of highway transportation, in order to protect the public safety, promote the general welfare, and advance the economy of the state.

§ 2. Amendment.) Subsections 2 and 9 of section 39-06-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. To any person whose license has been suspended in this state or in any other state during such suspension, nor to any person whose license has been revoked, except as provided in sections 39-06-35 and 39-06-36;
9. To any person who has been convicted four times of a misdemeanor involving the movements of a vehicle under the provisions of this chapter or the laws of this state relating to highways, within the preceding two-year period.

§ 3. Amendment.) Section 39-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-04. Instruction Permit.) Any person may apply to the commissioner for an instruction permit. The commissioner may in his discretion issue to the applicant an instruction permit which shall entitle the applicant while having such permit in his immediate possession to drive a motor vehicle upon the public highways for a period of six months when accompanied by a licensed operator who holds a license corresponding to the vehicle he operates and has had at least one year of driving experience and who is occupying a seat beside the driver, except in the event the permittee is operating a motorcycle. Any such instruction permit may be renewed or a new permit issued for an additional period.

§ 4. Amendment.) Section 39-06-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***39-06-14. Licenses Issued to Operators—General.)** The commissioner shall, upon payment of a three dollar fee, issue to every applicant qualifying therefor an operator's license as applied for in the form prescribed by the commissioner, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, date of birth, residence address, and a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his usual signature with pen and ink immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee. For purposes of verification, an officer may require the licensee to write his signature in the presence of such officer.

Whenever the commissioner issues a license to a person under the age of eighteen years, such license shall be designated and clearly marked as a "provisional" license. Upon renewal as applicable to operator licenses, the commissioner may for reasonable cause as shown by its records, designate the renewal of the license as provisional. Otherwise a license in usual form shall be issued subject to other provisions of this chapter. Provisional licenses shall be subject to suspension by the commissioner without preliminary hearing upon a showing by the records or other sufficient evidence that the licensee has violated the provisions of this chapter or any other law of this state or municipal ordinance adopted by local authorities regulating the operation of motor vehicles on the highway.

§ 5. Amendment.) Section 39-06-19 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-19. Expiration of License—Renewal.) Every operator's license issued under the provisions of this chapter shall expire and be renewed according to the following schedule: The expiration date of operator's license for every person whose year of birth occurred in a year ending in an odd numeral shall be twelve o'clock midnight on the last day of the birth month in the next succeeding year ending in an odd numeral. The expiration date of operator's license for every person whose year of birth occurred in a year ending in an even numeral shall be twelve o'clock midnight on the last day of the birth month in the next succeeding year ending in an even numeral. Application with fee for renewal of license shall be presented to the commissioner not prior to thirty days before the birth date anniversary of the applicant. The commissioner may require an examination of an applicant as upon

***Note:** Section 1 of chapter 306, 1967 S.L., also amended section 39-06-14.

an original application. Every application for renewal of a license by an applicant under the age of twenty-one or over the age of seventy shall be accompanied by a certificate of examination from either the driver licensing or examining authorities or a physician or an optometrist, licensed in this or another state, containing a statement as to the corrected and uncorrected vision of the applicant. An application for a motor vehicle operator's license from an applicant applying for first license under the age of twenty-one may be accompanied by a certificate of examination from a physician or an optometrist, licensed in this or another state, containing a statement as to the corrected and uncorrected vision of the applicant, in lieu of the eye examination conducted by the driver licensing authorities. No certificate of examination shall be dated more than six months prior to the date of the driver license application. Every person submitting application and fee for renewal of license one year or more after expiration of license shall be treated as a new driver and subject to the examination as upon an original application. The fee for every operator's license shall be three dollars.

§ 6. Amendment.) Section 39-06-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-23. Definition of Suspension, Revocation, and Cancellation.) In this title, unless the context or subject matter otherwise requires:

1. Suspension means that the driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn but only during the period of such suspension.
2. Revocation means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted upon by the commissioner after the expiration of the period of revocation, which period shall not be less than thirty days nor more than one year.
3. Cancellation means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to such license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after such cancellation.

§ 7. Amendment.) Section 39-06-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-24. Authority to Cancel Licenses.) The commissioner may cancel any operator's license or permit upon determining that the licensee was not entitled to the issuance of a license under the laws of this state or that said licensee failed to give the required or correct information on his application or committed any fraud in making such application or the fee was in the form of an insufficient fund or no-account check. Upon such cancellation, the licensee must surrender the license or permit so canceled to the commissioner.

§ 8. Amendment.) Section 39-06-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-29. Courts to Report Records of Certain Convictions.) Every court or juvenile commissioner having jurisdiction over offenses committed under this title or any other law of this state or municipal ordinance regulating the operation of motor vehicles on highways, shall forward within ten days to the commissioner a record of the conviction of any person in said court, or a report of the action of the juvenile court in the case of a juvenile, for a violation of any of said laws other than regulations governing standing or parking, and may recommend the suspension of the operator's license or permit of the person so convicted or reported.

§ 9. Amendment.) Section 39-06-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-30. Conviction—Meaning and Effect.) For the purposes of subsection 9 of section 39-06-03 and sections 39-06-31 and 39-06-32 of the North Dakota Century Code the term "conviction" shall mean a final conviction for violation of state motor vehicle laws or for violation of municipal motor vehicle ordinances including offenses listed in section 39-06-31. Also, for the purposes of this chapter a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

§ 10. Amendment.) Section 39-06-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-31. Mandatory Revocation of Licenses.) The commissioner shall revoke forthwith the license of any operator upon receiving a record of such operator's conviction of any of the following offenses, when such conviction has become final:

1. Manslaughter or negligent homicide resulting from operation of a motor vehicle;

2. Any felony in the commission of which a motor vehicle is used;
3. Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;
4. Perjury or the making of a false affidavit or statement under oath to the commissioner under this chapter or under any other law relating to the ownership or operation of motor vehicles;
5. Conviction, or forfeiture of bail not vacated, upon two charges of reckless driving, or aggravated reckless driving, committed within a period of eighteen months; or
6. Conviction of driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders him incapable of safely driving a motor vehicle.

§ 11. **Amendment.)** Section 39-06-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-32. Authority to Suspend Licenses.) The commissioner may suspend the license of an operator without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

1. Has committed an offense for which mandatory revocation of license is required upon conviction;
2. Has been convicted of serious offenses against traffic regulations governing the movement of vehicles with such frequency as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;
3. Is an habitually reckless or negligent driver of a motor vehicle;
4. Is incompetent to drive a motor vehicle;
5. Has permitted an unlawful or fraudulent use of his license;
6. Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation; or
7. Has been convicted four times of a misdemeanor involving the movement of a vehicle under the provisions of this chapter or the laws of this state relating to highways, within the preceding two-year period.

§ 12. **Amendment.)** Section 39-06-33 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-33. Hearing Subsequent to License Suspension.) Upon suspending the license of any person as authorized in section 39-06-32, the commissioner shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing as early as practical within not to exceed twenty days after receipt of such request in the county wherein the licensee resides unless the department and licensee agree that such hearing may be held in some other county. Upon such hearing the commissioner or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. Upon such hearing the commissioner shall either rescind his order of suspension or, good cause appearing therefor, may continue, modify, or extend the suspension of such license or revoke such license. In the case of suspensions under the authority of subsection 6 of section 39-06-32 of the North Dakota Century Code, the operator shall first be given notice of intention to suspend and shall have ten days from the date of receipt of such notice to request a hearing upon the proposed order of suspension. Pending such hearing, which shall be conducted in the same manner as other hearings provided for in this section, the suspension of the license of the operator demanding the hearing shall be held in abeyance.

§ 13.) Section 39-06-33.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-06-33.1. Authority to Suspend Licenses — Show Cause Order Required.) The commissioner may suspend the license of an operator upon a showing by its records or other sufficient evidence that the licensee has been convicted by a court of competent jurisdiction for violation of the provisions of this title or any other law of this state or municipal ordinance regulating the operation of motor vehicles on highways where it appears from the department records that the violation for which he was convicted contributed in causing an accident resulting in the death or serious personal injury, requiring professional medical care of another, or serious property damage. Prior to suspending the license of any person as authorized in this section, the commissioner shall immediately notify the licensee in writing to show cause, within twenty days, why his license should not be suspended or revoked. Upon the request of a licensee the commissioner shall afford him an opportunity for a hearing as early as practical within not to exceed twenty days after receipt of such request in the county wherein the

licensee resides unless the department and licensee agree that such hearing may be held in some other county. Upon such hearing the commissioner or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. Upon such hearing the commissioner may, for good cause, either suspend or revoke the license of such person.

§ 14. Amendment.) Section 39-06-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-37. Surrender and Return of License.) The commissioner upon suspending or revoking a license shall require that such license shall be surrendered to and be retained by the commissioner, except that at the end of the period of suspension such license so surrendered shall be returned to the licensee. If any person fails to return to the commissioner any license or permit which has been canceled, suspended, or revoked, the commissioner shall direct any highway patrolman or peace officer to secure possession thereof and return the same to the commissioner. If any person fails to return to the commissioner any license or permit which has been canceled, suspended, or revoked, the commissioner may determine that the period of suspension, revocation, or cancellation did not commence until the license or permit was surrendered and was in the possession of the commissioner.

§ 15. Amendment.) Section 39-06-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-38. No Operation Under Foreign License During Suspension or Revocation in This State.) Any resident or non-resident whose operator's or chauffeur's license or right or privilege to operate a motor vehicle in this state has been suspended or revoked as provided in this title shall not operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this title.

§ 16. Amendment.) Section 39-06-39 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-39. Review by Court.) Any person denied a license or whose license has been canceled, suspended, or revoked by the commissioner under the provisions of this chapter, except where such cancellation or revocation is mandatory, may

within thirty days after the determination by the commissioner, file a petition for a hearing of the matter in the district court in the county in which such person shall reside or in the county in which the administrative hearing, if any, was held. Only in cases wherein the license of such person was suspended under authority of subsection 2 or 3 of section 39-06-32, the serving and filing of a petition for judicial review as authorized by this section shall have the effect of suspending the order of the commissioner until the court shall review the determination of the commissioner, but in no event for a period exceeding thirty days unless such petition is continued by the court for good cause shown. No ex parte stay orders shall be issued in any proceedings under this section. It shall be the duty of the court to set the matter for hearing, and the petitioner shall give thirty days' written notice thereof to the commissioner. Thereupon the court shall determine whether there were reasonable grounds under the statutes for the determination of the commissioner. The decision of the district court may be appealed to the supreme court by either the petitioner or the commissioner, in which event the supreme court shall hear and determine the matter de novo upon the record of the proceedings had in the district court.

The foregoing provisions of this section shall be legibly printed or stamped upon the notice given to the applicant or licensee informing him of the action taken by the commissioner.

§ 17. Amendment.) Subsection 7 of section 39-06-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. To do any act forbidden or fail to perform any act required by this title.

§ 18. Authority to Suspend Licenses of Juveniles.) The highway commissioner may suspend the license of a juvenile without preliminary hearing when the report of the action of a juvenile court is forwarded to the commissioner under the provisions of section 39-06-29, and such report indicates that there has been a commission of those offenses listed under section 39-06-31.

§ 19. State Toxicologist to Examine Blood Specimens of Fatalities in Accidental Deaths Involving a Motor Vehicle.) In cases of death occurring on or after July 1, 1967, and prior to July 1, 1969, resulting from a motor vehicle accident or other unnatural death occurring in a motor vehicle, the county coroner shall require that a blood specimen of at least 20 cc. be withdrawn from the body of the decedent within 24 hours after his death by a coroner, coroner's physician, or other qualified person, prior to embalming. The blood specimens

shall be collected and preserved by methods and techniques established by the state toxicologist. The blood so drawn shall be sent to the state toxicologist for analysis for alcohol, carbon monoxide, and other drug content. The state toxicologist shall keep a record of all such examinations to be used for statistical purposes. The results of the examinations referred to in this section shall not be admissible in evidence in any action of any kind in any court or before any tribunal, board, agency, or person, but shall be used only for statistical purposes. The cumulative results of the examinations, without identifying the individuals involved, shall be disseminated to interested state and local officials and made public by the state toxicologist. Any person drawing blood and any person making any examination of blood under the terms of this Act shall be immune from all liability, civil or criminal, that might otherwise be incurred or imposed. The individual drawing the blood sample shall be paid a fee of five dollars by the state toxicologist for each acceptable blood specimen submitted for analysis under the requirements of this Act.

§ 20. Appropriation.) The sum of \$5,000.00, or so much thereof as may be necessary, is appropriated to the state toxicologist for administering the provisions of section 20 of this Act.

§ 21. Repeal.) Section 39-06-15 of the 1965 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 14, 1967.

CHAPTER 293

S. B. No. 145
(Goldberg)

PARKING PRIVILEGES FOR HANDICAPPED

AN ACT

To require the motor vehicle registrar to issue special parking privilege permits to handicapped people and to repeal section 40-05-02.1 of the North Dakota Century Code, relating to parking privileges for the handicapped, and providing a penalty.

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

§ 1. Parking Privileges for Physically Handicapped.) Any physically handicapped person who displays prominently upon an automobile parked by him or under his direction and for his use, the distinguishing certificate or insignia specified in

this Act shall be entitled to courtesy in the parking of such automobile. Provided, however, that any municipality may, by ordinance, prohibit parking on any street or highway for the purpose of creating a fire lane, or to provide for the accommodation of heavy traffic during morning and afternoon rush hours, and the privileges extended to such handicapped persons shall not apply on streets or highways where and during such times as parking is prohibited.

§ 2. Definition of Physically Handicapped.) Physically handicapped as used in this Act shall include any person who has sustained an amputation or material disability of either or both legs, or who has been otherwise disabled in any manner rendering it difficult and burdensome for him to walk.

§ 3. Identifying Certificate.) The motor vehicle registrar shall issue without charge a special identifying certificate or insignia for a marked motor vehicle to any physically handicapped applicant upon submission by the applicant of a certificate issued by a qualified physician to the motor vehicle registrar that he is a physically handicapped person within the meaning of section 2 of this Act. The motor vehicle registrar shall determine the form and size of the certificate or insignia and shall promulgate rules and regulations governing the issuance thereof.

§ 4. Parking Privileges — Revocation — Penalty.) If the police of any municipality or any other political subdivision shall find that such certificate or insignia is being improperly used, they may report to the motor vehicle registrar any such violation and the motor vehicle registrar may, in his discretion, remove the privilege. Any person who is not physically handicapped and who exercises the privilege granted a physically handicapped person under section 1 of this Act shall be guilty of a misdemeanor.

§ 5. Repeal.) Section 40-05-02.1 of the 1965 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 14, 1967.

CHAPTER 294

H. B. No. 573
(Solberg(2), Opedahl)

POWERS AND DUTIES OF MOTOR VEHICLE REGISTRAR

AN ACT

To amend and reenact section 39-02-03 of the North Dakota Century Code, relating to the powers and duties of the motor vehicle registrar.

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

§ 1. **Amendment.)** Section 39-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-02-03. Powers and Duties of Registrar and Department.)

The registrar, subject to the approval of the governor, may adopt and enforce such administrative rules and regulations and designate such agencies and establish such branch offices as may be necessary to carry out the laws applicable to his office and department. He shall provide suitable forms for applications, registration cards, license number plates, and all other forms requisite for the operation of his office and department, and shall prepay all transportation charges thereon. The department and the officers thereof shall enforce the provisions of all laws pertaining to the registrar and the motor vehicle department.

Approved February 21, 1967.

CHAPTER 295

S. B. No. 43
(Forkner, Holand, Luick)
(From LRC Study)

DUTIES AND PERSONNEL OF HIGHWAY PATROL

AN ACT

To create and enact subsection 12 of section 39-03-09 and to amend and reenact sections 39-03-02, 39-03-03, 39-03-04, 39-03-07, subsection 2 of section 39-03-13, and section 39-03A-18 of the North Dakota Century Code, relating to the powers of the highway patrol, the appointment, removal, and duties of the superintendent, assistant superintendent, and patrolmen, the qualifications of patrolmen, the powers and salary of the superintendent, and to the compulsory termination of employment of patrolmen.

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

§ 1. **Amendment.)** Section 39-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03-02. State Highway Patrol Superintendent Appointed by Governor—Duties.) The governor shall appoint a state highway patrol superintendent who shall enforce the provisions of the laws of this state relating to the protection and use of the highways in this state and the operation of motor and other vehicles upon such highways.

§ 2. **Amendment.)** Section 39-03-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03-03. Patrolmen — Appointment — Removal — Duties.) The superintendent with the approval of the governor may appoint an assistant superintendent and patrolmen who, together with the superintendent, shall constitute the highway patrol. Such patrolmen shall enforce the provisions of the laws of this state relating to the protection and use of highways and shall patrol such highways and cooperate with sheriffs and police in enforcing the laws regulating the operation of vehicles and the use of highways. Any patrolman, except a temporary appointee, shall be subject to removal for cause only by the state highway patrol hearing board, which shall consist of the governor, secretary of state and attorney general. Except, however, the superintendent shall have the authority to appoint and remove the assistant superintendent at his discretion. Any such action taken by the superintendent shall not, how-

ever, affect the status of such persons as highway patrolmen. Notwithstanding any other provisions of this chapter, the superintendent, upon relieving the assistant superintendent of the duties of that position, may reduce him in rank to the position of captain. The governor shall be chairman of such board. The procedure which shall govern the removal of patrolmen and the appointment and removal of temporary appointees, shall be as follows:

1. Removal proceedings may be initiated by the filing of written charges against the patrolman sought to be removed, verified by the person making the same, which charges shall be filed with the governor. If, upon the filing of such charges, the governor believes that they constitute grounds for removal, he shall order a hearing thereon before the highway patrol hearing board, and shall fix the time for such hearing, otherwise he shall dismiss such charges;
2. Not less than fifteen days before the time set for the hearing, notice thereof, signed by the chairman, together with a copy of the charge or charges, shall be served on the patrolman accused, by personal service if his whereabouts is known, within the state of North Dakota, otherwise by publication in the manner provided by law for the service of summons in a civil action. The highway patrol hearing board shall have authority to hear such charge or charges and make an appropriate order in the proceedings, which order shall be filed with the governor, and, if it shall be an order of removal, it shall be served upon the person removed either personally or by registered or certified mail within ten days after its issuance;
3. In the event the governor orders a hearing, he may, at his discretion, suspend such accused patrolman, pending the final determination of the charges, and in case the charges are dismissed, such patrolman shall be reinstated without loss of salary during the period of suspension;
4. Any patrolman, who is dismissed by order of the highway patrol hearing board, may appeal to the district court of Burleigh county, which appeal shall be taken and determined in the manner provided by chapter 28-32 of the title Judicial Procedure, Civil; and
5. Each patrolman appointed shall be deemed a temporary appointee for a period of twelve months, during which period he shall be placed under probationary training and service. At the end of such training period, such temporary appointee shall be automatically dismissed

unless he receives a permanent appointment which shall be approved by the superintendent. During such training period, such temporary appointee shall be subject to dismissal at the will of the superintendent.

§ 3. Amendment.) Section 39-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03-04. Qualifications of Patrolmen—Veterans Have Preference.) No person shall be appointed as a patrolman unless he has the following qualifications:

1. Is not less than twenty-one and not more than thirty-three years of age on the date of his appointment;
2. Has passed such physical examination and such other qualification test as may be required by the superintendent;
3. Is of good moral character and temperate habits; and
4. Has been a citizen of the United States for not less than two years prior to his appointment.

Preference for appointment shall be given at all times to honorably discharged veterans and citizens of the state of North Dakota, and all appointments shall be made without regard to any political party affiliation of the applicant.

§ 4. Amendment.) Section 39-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03-07. Salary of Superintendent — Limitations.) The salary of the superintendent shall be in such sum as shall be appropriated, from time to time, by the legislative assembly. The salary of the assistant superintendent and each patrolman shall be fixed by the superintendent, and all salaries shall be paid monthly.

§ 5. Amendment.) Subsection 12 of section 39-03-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

12. To exercise general police powers over all violations of law committed in their presence upon any highway and within the highway right-of-way or when in pursuit of any actual or suspected law violator.

§ 6. Amendment.) Subsection 2 of section 39-13-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. He may designate ranks, fix salaries with appropriate allowances for those ranks, and establish promotional procedures;

§ 7. **Amendment.)** Section 39-03A-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-18. Compulsory Termination of Employment.) Except as provided in this section, whenever any contributor shall reach the age of sixty years, his employment with the patrol shall be terminated forthwith. If such contributor has at least twenty-five years accumulated deductions he shall be entitled to receive from the fund, without application therefor, the monthly retirement allowance provided for in section 39-03A-12. If such contributor has at least fifteen years but less than twenty-five years accumulated deductions he shall be entitled to receive from the fund, without application therefor, the monthly optional retirement allowance provided for in section 39-03A-14. If such contributor has less than fifteen years accumulated deductions he shall be entitled to receive from the fund, without application therefor, the severance allowance provided for in section 39-03A-17, except that a contributor who was a member of the North Dakota highway patrol January 1, 1959, shall have the following option:

1. A contributor who shall have reached compulsory retirement age with less than twenty years service and who has terminated his employment with the patrol shall be eligible for a monthly retirement equal to that portion of the retirement benefits under section 39-03A-14 as his total accumulations may bear to what the accumulations would have been had he completed twenty years service at the time of his retirement.

Approved March 15, 1967.

CHAPTER 296

S. B. No. 215
(Holand)

POWERS OF HIGHWAY PATROL

AN ACT

To amend and reenact subsection 4 of section 39-03-09 of the North Dakota Century Code, relating to the powers of the highway patrol, and to repeal section 39-03-10 of the North Dakota Century Code, relating to the inspection of motor vehicles by the highway patrol.

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

§ 1. Amendment.) Subsection 4 of section 39-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. To facilitate compliance with the provisions of this title, to require the driver of a vehicle to stop and exhibit his operator's license and the registration cards issued for the vehicle, if any are required, and to submit to an inspection and test of the equipment of such vehicle;

§ 2. Repeal.) Section 39-03-10 of the North Dakota Century Code is hereby repealed.

Approved March 4, 1967.

CHAPTER 297

H. B. No. 570
(Solberg(2), Opedahl)

MOTOR VEHICLE REGISTRATION

AN ACT

To amend and reenact section 39-04-06 of the North Dakota Century Code, relating to the elimination of the term thirty days after notification by regular mail.

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

§ 1. Amendment.) Section 39-04-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-06. When Registration Rescinded.) The department shall rescind and cancel the registration of a motor vehicle:

1. When the department shall determine that a vehicle is unsafe or unfit to be operated or is not equipped as required by law; or
2. Whenever the person to whom the registration card or registration number plates therefor have been issued shall make or permit to be made any unlawful use of the same or permit the use thereof by a person or on a motor vehicle not entitled thereto; or
3. Whenever the reciprocity commission finds that a vehicle is registered in accordance with a reciprocity agreement, arrangement or declaration and such vehicle is operated in violation of such agreement.

Whenever a check is returned to the department for want of payment the department shall rescind and cancel the registration of the motor vehicle covered by such check. When payment of the registration fee is made the registration shall be renewed.

Approved February 21, 1967.

CHAPTER 298

S. B. No. 210

(Goldberg, Nasset, Lowe, Jacobson, Litten)

DUE DATE AND DELINQUENCY OF MOTOR VEHICLE REGISTRATION FEES

AN ACT

To amend and reenact section 39-04-15 of the North Dakota Century Code, relating to motor vehicle registration fees.

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

§ 1. Amendment.) Section 39-04-15 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-15. When Registration Fees Become Due and Delinquent.) The registration fee for a motor vehicle shall become due as soon as such vehicle first is used upon the highways of this state and, except as otherwise provided in this chapter, upon January first in each year thereafter. The annual regis-

tration fee shall be paid upon transfer of ownership in the vehicle and in any event on or before February first, and shall be delinquent after February first unless paid. Except as otherwise provided in this chapter, license fees falling due between January second and December thirty-first shall become delinquent upon the expiration of ten days after the same becomes due.

Approved February 24, 1967.

CHAPTER 299

H. B. No. 665
(Burke, Schaffer)

APPLICATION FOR REGISTRATION

AN ACT

To amend and reenact section 39-04-17 of the North Dakota Century Code, relating to a certificate of the notary public showing compliance with the motor vehicle registration laws.

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

§ 1. **Amendment.)** Section 39-04-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-17. Certificate of Notary Showing Compliance with Registration Is Prima Facie Evidence.) The possession of a certificate made out by the notary public who took the acknowledgment of the application when the vehicle was first registered or required to be registered under the laws of this state, where such certificate shows the date of application, the make and model of the motor vehicle, the manufacturer's number of the motor vehicle which such application describes, and further shows that such notary public personally mailed the application with the remittance fee, shall be prima facie evidence of compliance with the motor vehicle law with reference to the motor vehicle therein described, for a period of thirty days from the date of such application.

Approved February 21, 1967.

CHAPTER 300

H. B. No. 648
(Giffey, DeKrey)

DATE OF NONREGISTRATION OF MOTOR VEHICLES USED
FOR HARVESTING BY NONRESIDENTS

AN ACT

To amend and reenact subdivision h of subsection 2 of section 39-04-18 of the North Dakota Century Code, relating to the change of date of the harvest of agricultural products.

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

§ 1. Amendment.) Subdivision h of subsection 2 of section 39-04-18 is hereby amended and reenacted to read as follows:

- h. Motor vehicles owned and operated by nonresidents engaged in harvest of agricultural products from July fifteenth through November fifteenth of any one year, provided, however, that such motor vehicles have displayed thereon a decal or other means of identification issued by the motor vehicle registrar upon payment of a fee of twenty-five dollars.

Approved February 21, 1967.

CHAPTER 301

H. B. No. 900
(Tweten, Moquist)

MOTOR VEHICLE REGISTRATION FEES

AN ACT

To amend and reenact subdivision b of subsection 2 and subsection 5 of section 39-04-19 of the North Dakota Century Code, relating to motor vehicle registration fees.

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

§ 1. Amendment.) Subdivision b of subsection 2 of section 39-04-19 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. School buses and trucks or combination trucks and trailers, including commercial and noncommercial trucks, except those trucks or combinations of trucks and

trailers which qualify for registration under subsection 5 of this section:

Gross Weights	Years Registered			8th and subsequent years
	1st, 2nd, and 3rd years	4th and 5th years	6th and 7th years	
0- 4,000	\$18.00	\$14.50	\$10.75	\$10.00
4,001- 6,000	23.25	18.50	14.00	10.00
6,001- 8,000	28.50	22.75	17.00	10.00
8,001-10,000	33.75	27.00	20.25	11.75
10,001-12,000	39.00	31.25	23.50	13.75
12,001-14,000	44.25	35.50	26.50	15.50
14,001-16,000	49.50	39.50	29.75	17.25
16,001-18,000	54.75	43.75	32.75	19.25
18,001-20,000	60.00	48.00	36.00	21.00
20,001-22,000	65.25	52.25	39.25	22.75
22,001-24,000	70.50	56.50	42.25	24.75

Gross Weights	1st, 2nd, 3rd and 4th years	5th, 6th, 7th, 8th and 9th years	10th and subsequent years
24,001-26,000	\$155.00	\$124.00	\$108.50
26,001-28,000	190.00	152.00	133.00
28,001-30,000	225.00	180.00	157.50
30,001-32,000	260.00	208.00	182.00
32,001-34,000	295.00	236.00	206.50
34,001-36,000	330.00	264.00	231.00
36,001-38,000	365.00	292.00	255.50
38,001-40,000	400.00	320.00	280.00
40,001-42,000	435.00	348.00	304.50
42,001-44,000	470.00	376.00	329.00
44,001-46,000	505.00	404.00	353.50
46,001-48,000	540.00	432.00	378.00
48,001-50,000	575.00	460.00	402.50
50,001-52,000	610.00	488.00	427.00
52,001-54,000	645.00	516.00	451.50
54,001-56,000	680.00	544.00	476.00
56,001-58,000	715.00	572.00	500.50
58,001-60,000	750.00	600.00	525.00
60,001-62,000	785.00	628.00	549.50
62,001-64,000	820.00	656.00	574.00
64,001-66,000	855.00	684.00	598.50
66,001-68,000	890.00	712.00	623.00
68,001-70,000	925.00	740.00	647.50
70,001-72,000	960.00	768.00	672.00
72,001-73,280	995.00	796.00	696.50

§ 2. **Amendment.)** Subsection 5 of section 39-04-19 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Trucks or combinations of trucks and trailers which are used as farm vehicles only, shall be entitled to registration pursuant to the following fee schedule and the provisions of this subsection. Farm vehicles shall be considered, for the purpose of this subsection, as trucks or combinations of trucks and trailers owned and operated by a bona fide resident farmer who uses such vehicles exclusively for transporting his own property between farms and the usual local trading places and not for hire. The registrar shall issue a distinctive registration plate for such vehicles.

Gross Weights	Years Registered			8th and subse- quent years
	1st, 2nd, and 3rd years	4th and 5th years	6th and 7th years	
0- 4,000	\$ 18.00	\$ 14.50	\$ 10.75	\$ 10.00
4,001- 6,000	23.25	18.50	14.00	10.00
6,001- 8,000	28.50	22.75	17.00	10.00
8,001-10,000	33.75	27.00	20.25	11.75
10,001-11,999	39.00	31.25	23.50	13.75
12,000-14,000	44.25	35.50	26.50	15.50
14,001-16,000	49.50	39.50	29.75	17.25
16,001-18,000	54.75	43.75	32.75	19.25
18,001-20,000	60.00	48.00	36.00	21.00
20,001-22,000	65.25	52.25	39.25	22.75
22,001-24,000	70.50	56.50	42.25	24.75
24,001-26,000	75.50	60.50	45.25	26.75
26,001-28,000	85.50	68.50	51.25	30.75
28,001-30,000	95.50	76.50	57.25	34.75
30,001-32,000	105.50	84.50	63.25	38.75
32,001-34,000	115.50	92.50	69.25	42.75
34,001-36,000	125.50	100.50	75.25	46.75
36,001-38,000	135.50	108.50	81.25	50.75
38,001-40,000	145.50	116.50	87.25	54.75
40,001-42,000	155.50	124.50	93.25	58.75
42,001-44,000	165.50	132.50	99.25	62.75
44,001-46,000	175.50	140.50	105.25	66.75
46,001-48,000	185.50	148.50	111.25	70.75
48,001-50,000	195.50	156.50	117.25	74.75
50,001-52,000	205.50	164.50	123.25	78.75
52,001-54,000	215.50	172.50	129.25	82.75
54,001-56,000	225.50	180.50	135.25	86.75
56,001-58,000	235.50	188.50	141.25	90.75

Gross Weights	Years Registered		
	1st, 2nd, 3rd and 4th years	5th, 6th, 7th, 8th and 9th years	10th and subse- quent years
58,001-60,000	\$750.00	\$600.00	\$525.00
60,001-62,000	785.00	628.00	549.50
62,001-64,000	820.00	656.00	574.00
64,001-66,000	855.00	684.00	598.50
66,001-68,000	890.00	712.00	623.00
68,001-70,000	925.00	740.00	647.50
70,001-72,000	960.00	768.00	672.00
72,001-73,280	995.00	796.00	696.50

Approved March 15, 1967.

CHAPTER 302

S. B. No. 68

(Forkner, Roen, Chesrown, Larsen)

TRANSFER OF REGISTRATION PLATES

AN ACT

To amend and reenact section 39-04-36 of the 1965 Supplement to the North Dakota Century Code, relating to the transfer of registration and number plates of motor vehicles.

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

§ 1. Amendment.) Section 39-04-36 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-36. Transfer of Registration and Number Plates Upon Transferring or Assigning Title—Exception.) Whenever the owner of a vehicle registered under the provisions of this chapter transfers or assigns his title thereto or interest therein, the registration of such vehicle, together with the number plates originally assigned thereto, shall be transferred to the transferee as provided in this chapter. The number plates originally assigned to the vehicle must remain attached thereto until the end of the current registration year except that the owner of a vehicle registered for a gross weight in excess of 36,000 pounds may transfer number plates from one truck to a new replacement truck by compliance with procedures established by the registrar. A five dollar fee shall accompany each transfer of registration. Whenever the truck from which plates

are transferred remains in a motor vehicle dealer's possession in North Dakota, it must be licensed for a minimum weight of 26,000 pounds for the unexpired portion of the registration period. Such vehicle, however, shall not be operated upon the highways of this state until properly licensed therefor under the provisions of this chapter.

Approved February 22, 1967.

CHAPTER 303

H. B. No. 701
(Weber, Wilkie)

CREDITS ON DESTROYED VEHICLES

AN ACT

To amend and reenact section 39-04-44 of the North Dakota Century Code, relating to credits on destroyed vehicles.

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

§ 1. **Amendment.)** Section 39-04-44 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-44. Credits on Destroyed Vehicle.) Any owner of a motor vehicle licensed or taxed in this state, if such vehicle is permanently destroyed, may deduct from any license fee or tax thereafter due from such owner during the same year or following year upon another motor vehicle an amount equal to the unused portion of the fee or tax paid upon the vehicle so destroyed, computed pro rata by the month, one-twelfth of the annual fee or tax paid for each month of the year remaining after the month in which such vehicle was so destroyed.

Approved February 24, 1967.

CHAPTER 304

H. B. No. 580
(Solberg(9), Mueller)

HIGHWAY TAX DISTRIBUTION FUND

AN ACT

Relating to a highway tax distribution fund, and to amend and reenact sections 39-04A-02, 39-04-39, 57-40.1-07, 57-52-11, 57-53-09, and 57-54-14, relating to motor vehicle and fuels taxes and to repeal sections 39-04-39.1 and 57-54-15 of the North Dakota Century Code, relating to use and fuel taxes.

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

§ 1. Amendment.) Section 39-04A-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04A-02. Levy of Additional Annual Fee—Administration—Rules and Regulations.) There is hereby levied on motor vehicles engaged in the transportation of property, an annual fee which shall be in addition to the license fee paid under the requirements of section 39-04-19 for the licensing of such motor vehicles. Such fees shall be due on January first of each year and shall be payable to the motor vehicle registrar and deposited with the state treasurer to the credit of the highway tax distribution fund. The provisions of this chapter shall be administered by the motor vehicle registrar, who shall have authority to promulgate rules and regulations to carry out the provisions of the chapter.

§ 2. Amendment.) Section 39-04-39 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-39. Distribution of Registration Fees Collected.) Any moneys in the registration fund accruing from license fees or from other like sources, in excess of the amount required to pay salaries and other necessary expenses, in accordance with the legislative assembly's appropriation for such purposes, shall be promptly deposited with the state treasurer who shall place such moneys in a highway tax distribution fund which shall be distributed in the manner as prescribed by law.

§ 3. Amendment.) Section 57-40.1-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-40.1-07. Distribution and Use of Revenue.)** Fifty percent of the moneys accruing by virtue of section 57-40.1-02, promptly upon collection, shall be remitted by the motor vehicle registrar to the state tax commissioner and by him shall be promptly paid to the state treasurer to be transferred and credited to the general fund and fifty percent to the highway tax distribution fund.

§ 4. Amendment.) Section 57-52-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-11. Distribution of Tax.) All money collected by the state auditor under the provisions of this chapter shall be promptly transferred to the state treasurer who shall deposit such moneys in a highway tax distribution fund which shall be distributed in the manner as prescribed by law.

§ 5. Amendment.) Section 57-53-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-53-09. Distribution of Funds.) All taxes, license fees, penalties and interest collected under this chapter, except for the fines levied upon conviction for violation hereof, and except for license fees collected pursuant to chapter 57-52, shall be promptly transferred to the state treasurer who shall deposit such moneys in a highway tax distribution fund which shall be distributed in the manner as prescribed by law.

§ 6. Amendment.) Section 57-54-14 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-14. Allocation of Fuel Tax.) The state treasurer shall credit to the highway tax distribution fund the motor fuel tax, including interest received thereon, collected under the provisions of this chapter. Such highway tax distribution fund shall be distributed in the manner as prescribed by law.

§ 7. Highway Tax Distribution Fund—State Treasurer to Make Allocation to Counties.) A highway tax distribution fund is hereby created as a special fund in the state treasury into which shall be deposited the moneys available by law from collections of motor vehicle registration and related fees, fuels taxes, special fuels taxes, use taxes, and special fuels excise taxes. Any moneys in the highway tax distribution fund shall be transferred on a calendar quarter basis by the state treasurer, as follows:

***Note:** Section 57-40.1-07 was repealed by sections 13 of chapters 462 and 463, 1967 S.L. The allocation and distribution formula for motor vehicle excise taxes is contained in sections 9 of chapters 462 and 463, 1967 S.L.

1. Sixty-three percent of such moneys shall be transferred quarterly to the state highway department and placed in a state highway department fund.
2. Thirty-seven percent of such moneys shall be transferred quarterly to the counties of this state in proportion to the number of motor vehicle registrations credited to each county. Each county shall be credited with the certificates of title of all motor vehicles registered by residents of such county.
 - a. Except as limited in subdivision b of this subsection twenty-seven percent of sums received by each county shall be deposited in a special municipal highway fund of such county and shall be distributed by the county treasurer to the incorporated cities and villages within such county on the basis of the per capita population of all of the incorporated cities and villages situated within such county as determined by the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 of the North Dakota Century Code in case of a city or village incorporated subsequent to such census for use for road and street purposes.
 - b. Seventy-three percent of sums received by each county shall be set aside in a separate fund under the jurisdiction and control of the board of county commissioners and shall be appropriated and applied solely for highway purposes except in the event such seventy-three percent of the sums received by a county shall be less than the amount of funds received by such county as the county share of motor vehicle registration fees, motor fuels tax, special fuels tax, special fuels excise tax and motor vehicle use tax for the fiscal year ending June 30, 1965, then the amount set aside in a separate fund under the jurisdiction of the board of county commissioners shall be equal to the amount received from such sources during the fiscal year ending June 30, 1965, and that allocated in the municipal highway fund in subdivision a of this subsection shall be reduced accordingly.

§ 8. Repeal.) Sections 39-04-39.1 and 57-54-15 of the 1965 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 1, 1967.

CHAPTER 305

S. B. No. 185
(Holand)

TIME OF REGISTRATION OF MOTOR VEHICLES

AN ACT

To create and enact subsection 6 of section 39-05-02 of the North Dakota Century Code, relating to vehicles exempt from registration and to amend and reenact subsection 1 and subdivision b of subsection 2 of section 39-04-18 of the North Dakota Century Code, relating to the registration of motor vehicles.

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

§ 1. Amendment.) Subsection 1 of section 39-04-18 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as provided in this section, every motor vehicle as defined in subsection 32 of section 39-01-01, operated or intended to be operated upon any highway, road, or street in this state shall be registered annually with the motor vehicle registrar. Any vehicle being operated on the highways, roads, or streets of this state shall display such license plates as are furnished by the motor vehicle registrar upon the payment of the fees prescribed in this chapter.

Upon satisfactory proof to the registrar that a motor vehicle owned by a resident of this state was not used upon any of the highways of this state in any one or more years, such motor vehicle may be registered upon payment of the registration fee for the current year, and upon further payment of five dollars for each calendar year for which the vehicle was not registered and no license fee was paid therefor.

Any resident of the state of North Dakota, serving in the armed forces of the United States for a period of time greater than one year, may relicense any motor vehicle owned by him without paying any fee for the intervening years when such vehicle was not licensed, nor any penalties therefor, providing such veteran shows by suitable affidavit that such vehicle was not in use during any year in which it was not licensed. Such vehicle shall be licensed for the license fee applicable to the month of the year in which application for license is made.

§ 2. Amendment.) Subdivision b of subsection 2 of section 39-04-18 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. Motor vehicles owned and operated by Indian mission schools or by this state or any of its agencies, departments or political subdivisions, including school districts possessing a motor vehicle or vehicles used for driver education instruction, provided, however, that such vehicles shall display license plates provided by the motor vehicle registrar at actual cost.

§ 3.) Subsection 6 of section 39-05-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

6. Vehicles in possession of school districts, used for driver education instruction.

Approved March 14, 1967.

CHAPTER 306

S. B. No. 45
(Forkner, Holand, Luick)
(From LRC Study)

ISSUANCE OF LICENSES TO OPERATE MOTOR VEHICLES

AN ACT

To amend and reenact section 39-06-14 of the North Dakota Century Code, relating to the issuance of licenses to operate motor vehicles.

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

§ 1. Amendment.) Section 39-06-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***39-06-14. Licenses Issued to Operators—General—Classified Driver's License.)** The commissioner shall, upon payment of a three dollar fee by applicants, issue to every applicant qualifying therefor an operator's license as applied for in the form prescribed by the commissioner, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, date of birth, residence address, and a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his usual signature with pen and ink immediately upon receipt

***Note:** Section 4 of chapter 292, 1967 S.L., also amends section 39-06-14.

of the license. No license shall be valid until it has been so signed by the licensee. For purposes of verification, an officer may require the licensee to write his signature in the presence of such officer.

Effective January 1, 1968, all applicants holding a valid North Dakota driver's license making application for a renewal of such license, shall be issued a class 3 license without being subjected to an examination as herein provided. Effective January 1, 1968, all applicants, except those holding a valid North Dakota driver's license who will be issued a class 3 license, applying for issuance of driver licenses shall be issued a classified license after having been required to submit to an examination in the type of motor vehicle or combination of vehicles for which license is desired and which license shall authorize the holder to drive the vehicles set forth in such class as follows:

Class 1. Any vehicle or combination of vehicles except vehicles under class four.

Class 2. Any vehicle or combination of vehicles except:

- a. Vehicles towing another vehicle when the vehicle being towed has a gross weight in excess of six thousand pounds; and
- b. Vehicles under class four.

Class 3. Any two-axle or tandem-axle vehicle except:

- a. A truck tractor as defined in subsection 70 of section 39-01-01;
- b. A bus designed to carry more than fifteen passengers;
- c. A two-axle or tandem-axle vehicle when towing another vehicle when the vehicle being towed has a gross weight in excess of six thousand pounds; and
- d. Vehicles under class 4.

Provided, however, an operator with a class 3 license may operate a farm tractor towing another vehicle having a gross weight in excess of six thousand pounds.

Class 4. Any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

Provided, however, that before one can be examined and licensed to operate any vehicle falling under class 4, he must first be licensed to operate a motor vehicle under either class

1, 2, or 3. Upon passing an examination to operate a vehicle under class 4, the commissioner or his duly authorized agent shall certify the class 1, 2, or 3 license of the successful examinee, whichever the case may be, by stamping or otherwise indicating on the license an authorization to operate vehicles falling under class 4.

The department may accept a certificate of driving experience in lieu of a driving test on class 1 or 2 applications, for those persons licensed to operate and who have had experience operating motor vehicles in such classes, when such certificate is issued by an employer of the applicant and the applicant has first met the other examination requirements for the license for which he is applying. Such certificate may be submitted as evidence of the applicant's experience or training in the operation of the types of equipment covered by the license for which he is applying.

Any holder of a classified license who drives a motor vehicle otherwise than as permitted by the class of license issued to him shall be deemed to be driving a motor vehicle without being duly licensed by this chapter. The holder of a classified license who desires to obtain a different class license in one of the classes provided by this chapter must exchange or renew such license. The commissioner may impose such rules and regulations as he may deem necessary with respect to such renewals or exchanges for the proper administration of this chapter. No class 1 or 2 license shall be issued to any person under eighteen years of age. If any holder of a license issued pursuant to this chapter suffers permanent loss of use of a hand, arm, foot, leg, or eye, he shall, before operating any motor vehicle or motorcycle, make a report thereof to the commissioner who shall take such reasonable action as may be proper under the provisions of this chapter as to re-examination to determine if the licensee is capable of operating vehicles for which the individual is licensed.

Approved March 14, 1967.

CHAPTER 307

S. B. No. 184
(Holand)

ARREST OF TRAFFIC VIOLATORS

AN ACT

To amend and reenact section 39-07-07 of the 1965 Supplement to the North Dakota Century Code, relating to arresting person for violating traffic regulations and to amend and reenact sections 39-07-08 and 39-07-09 of the North Dakota Century Code, relating to hearing upon arrest and release upon promise to appear, and providing a penalty.

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

§ 1. **Amendment.)** Section 39-07-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-07. Halting Person for Violating Traffic Regulations—Duty of Officer Halting.) Whenever any person is halted for the violation of any of the provisions of chapters 39-08 through 39-13, 39-18 and 39-21, the officer halting such person, except as otherwise provided in section 39-07-09, may:

1. Take the name and address of such person;
2. Take the license number of his motor vehicle; and
3. Issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice.

§ 2. **Amendment.)** Section 39-07-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-08. Hearing—Time of—Promise of Defendant to Appear—Failure to Appear.) The time to be specified in the summons or notice provided for in section 39-07-07 shall be at least five days after the issuance of such summons or notice unless the person halted shall demand an earlier hearing, and, if the person halted desires, he may have the right, at a convenient hour, to an immediate hearing or to a hearing within twenty-four hours. Such hearing shall be before a magistrate of the township, municipality, or county in which the offense was committed. Upon the receipt from the person halted of a written promise to appear at the time and place mentioned in the summons or notice, such officer shall release him from custody. Any person refusing to give such written promise to

appear shall be taken immediately by the halting officer before the nearest or most accessible magistrate. Any person willfully violating his written promise to appear shall be subject to the penalty prescribed by section 39-07-06 regardless of the disposition of the charge upon which he originally was halted.

§ 3. **Amendment.)** Section 39-07-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-09. Offenses Under Which Person Halted May Not Be Entitled to Release Upon Promise to Appear.) The provisions of section 39-07-07 shall not apply to a person if:

1. The halting officer shall have good reason to believe such person guilty of any felony or when such person is halted and charged with either of the following offenses:
 - a. Causing or contributing to an accident resulting in injury or death of any person;
 - b. Driving while under the influence of intoxicating liquor or a narcotic drug;
2. The halting officer, acting within his discretion, deems it inadvisable to release such person upon his promise to appear when halted and charged with either 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.

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

Approved February 27, 1967.

CHAPTER 308

H. B. No. 544

(Giffey, Opedahl, Tweten, Winge)

(From LRC Study)

ACCIDENT REPORT FORMS

AN ACT

To amend and reenact sections 39-08-13, 39-08-14, 39-16-03 of the North Dakota Century Code, relating to accident report forms, public inspection of reports relating to accidents, and abstracts of such forms.

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

§ 1. **Amendment.)** Section 39-08-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-13. Accident Report Forms.) 1. The commissioner shall prepare and supply to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals, forms for accident reports required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The written reports to be made by investigating officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing, persons and vehicles involved, and contain information sufficient to enable the commissioner to determine whether the requirements for the deposit of security under chapter 39-16 are applicable.

2. Every accident report required to be made in writing shall be made on the appropriate form approved by the commissioner and shall contain all the information required therein unless not available.

3. Every law enforcement officer who investigates a vehicle accident of which report must be made as required in this chapter, or who otherwise prepares a written report as a result of an investigation either at the time of and at the scene of the accident or thereafter by interviewing the participants or witnesses, shall forward a written report of such accident to the department within five days after his investigation of the accident.

4. Such written reports required to be forwarded by law enforcement officers and the information contained therein shall not be privileged or held confidential, except, however,

the opinion of the law enforcement or investigating officer, if included in the report, shall be confidential and not open to public inspection.

§ 2. Amendment.) Section 39-08-14 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-14. Public Inspection of Reports Relating to Accidents.) 1. All accident reports made by persons involved in accidents or by garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the department or other state agencies having use for the records for accident prevention purposes, or for the administration of the laws of this state relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles, except that the department may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident.

2. All accident reports and supplemental information filed in connection with the administration of the laws of this state relating to the deposit of security or proof of financial responsibility shall be confidential and not open to general public inspection, nor shall copying of lists of such reports be permitted.

3. No written reports or written information mentioned in this section shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the commissioner shall furnish upon demand of any party to such trial, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the commissioner in compliance with law.

Notwithstanding any other provisions of this chapter, any information compiled or otherwise made available to the department pursuant to this chapter shall be transmitted to each and every duly authorized official or agency of the United States requesting such.

§ 3. Amendment.) Section 39-16-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16-03. Abstracts — Fee — Not Admissible in Evidence.) The commissioner upon request shall furnish any person a certified abstract of the operating record or any accident report filed by a law enforcement or investigating officer of any person subject to the provisions of this chapter. The opinion of the law enforcement or investigating officer, if included in

the report, however, shall be confidential and not open to public inspection. If there shall be no record of any conviction of such person of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by such person, the commissioner shall so certify. Such abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident. A fee of one dollar and fifty cents shall be paid for each such abstract of any operating record or copy of accident report.

Approved March 14, 1967.

CHAPTER 309

H. B. No. 823

(Gackle, Kent, Kingsbury)

USE OF LIQUOR AND ALCOHOLIC BEVERAGES IN MOTOR VEHICLES

AN ACT

To amend and reenact section 39-08-18 of the North Dakota Century Code, relating to open liquor containers and drinking alcoholic beverages in motor vehicles, and providing a penalty.

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

§ 1. **Amendment.)** Section 39-08-18 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-18. Open Bottle Law — Penalty.) No person shall drink or consume alcoholic beverages, as defined in the North Dakota Century Code, in or on any motor vehicle when such vehicle is upon a public highway or in an area used principally for public parking. No person shall have in his possession on his person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It shall be unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed except when such bottle

or receptacle shall be kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passengers. Any person violating the provisions of this section shall be guilty of a misdemeanor, and shall be punished by a fine of not less than ten dollars nor more than fifty dollars, or by imprisonment in the county jail for not less than five days nor more than thirty days, or by both such fine and imprisonment, in the discretion of the court.

Approved March 14, 1967.

CHAPTER 310

H. B. No. 755

(Dahl, Erickson(26), Sandness, Stoltenow)

WIDTH, HEIGHT, AND LENGTH LIMITATIONS ON VEHICLES

AN ACT

To amend and reenact subsections 1 and 2 of section 39-12-04 of the 1965 Supplement to the North Dakota Century Code, relating to width, height, and length limitations on vehicles.

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

§ 1. Amendment.) Subsections 1 and 2 of section 39-12-04 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. A total outside width, including load thereon, of eight feet. This limitation shall not apply to construction and building moving contractor's equipment, or to equipment used by such contractors to move their own equipment and when so moved by its owner or owners, which moving equipment shall not exceed ten feet, nor to implements of husbandry temporarily propelled or moved upon the highways of this state between sunrise and sunset; nor shall such limitation apply to farmers or ranchers or employees under their supervision when moving hay in the stack for his or their own use or in cooperation with other owners, providing that equipment used for this purpose shall be operated along the extreme right edge of the road or highway, and shall be

operated only between the hours of sunrise and sunset and in accordance with reasonable rules and regulations prescribed by the state highway commissioner; nor shall such limitation apply to a commercial haystack mover who shall have first obtained a seasonal haystack moving permit from the state highway commissioner. Provided, however, that any commercial haystack mover possessing a valid permit may also haul bales under the authority of the permit issued authorizing the hauling of haystacks. The fee for such permit shall be fifteen dollars which shall be in lieu of registration requirements while such vehicle is used for haystack moving only. Applicant shall have filed proof of liability insurance coverage in an amount not less than fifty thousand dollars and shall provide a red flag both to the front and to the rear of such haystack at all times when located upon any public highway and shall operate only between the hours of sunrise and sunset and in accordance with such additional reasonable rules and regulations as may be prescribed by the state highway commissioner.

2. A height of thirteen feet, six inches, whether loaded or unloaded, except that such height limitation shall not affect any present structure such as bridges and underpasses that are not thirteen feet six inches in height. Provided, however, a height of fifteen and one-half feet, whether loaded or unloaded, may be allowed by special permit by the state highway commissioner.

Approved March 14, 1967.

CHAPTER 311

S. B. No. 42

(Forkner, Holand, Luick)

(From LRC Study)

MINIMUM SPEED LIMITS AND TRAFFIC CONTROL DEVICES

AN ACT

To provide a method for the establishment of minimum speed limits and to provide for the adoption of a manual and specifications for a uniform system of traffic control devices and requiring the highway department to place and maintain signs and devices in accordance therewith, and to amend and reenact section 39-13-02 of the North Dakota Century Code, relating to local traffic signs.

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

§ 1. Minimum Speed Limits.) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law. Whenever the state highway commissioner and the superintendent of the highway patrol, acting jointly, or local authorities within their respective jurisdictions, determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, and where safe, alternate routes are available for slow-moving vehicles, the commissioner and superintendent or such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law. The commissioner and superintendent or local authorities when acting within their respective jurisdictions shall provide in their declarations for a means of moving slow-moving vehicles within such limited speed areas.

§ 2. State Highway Commissioner to Adopt Sign Manual.) The state highway commissioner shall adopt a manual and specifications for a uniform system of traffic control devices consistent with the provisions of this chapter for use upon highways within this state. Such uniform system shall correlate with and so far as possible conform to the system set forth in the most recent edition of the manual on uniform traffic control devices for streets and highways.

§ 3. State Highway Commissioner To Sign All State Highways.) The state highway commissioner shall place and maintain such traffic control devices, conforming to its manual and

specifications, upon all state highways as he shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic. Provided, however, that the commissioner may negotiate maintenance agreements with municipalities for those signs upon state highways which are located within the corporate limits of any municipality. No local authority shall place or maintain any traffic control device upon any highway under the jurisdiction of the state highway commissioner except by the latter's permission.

§ 4. Amendment.) Section 39-13-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-13-02. Local Traffic Signs.) Local authorities in their respective jurisdictions shall place and maintain such traffic control devices upon highways under their jurisdiction as prescribed in the state manual and specifications to indicate and to carry out the provisions of this Act or local traffic ordinances or to regulate, warn or guide traffic. All such traffic control devices erected after the effective date of this Act shall conform to the state manual and specifications. All previously existing traffic control devices must conform to the state manual and specifications by December 31, 1968.

Approved February 22, 1967.

CHAPTER 312

H. B. No. 616

(Strinden, Bunker, Welder)

PARKING AND TRAFFIC SIGNS IN MUNICIPALITIES

AN ACT

To amend and reenact sections 39-13-03 and 39-10-04 of the North Dakota Century Code, relating to parking and traffic signs within municipalities.

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

§ 1. Amendment.) Section 39-13-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-13-03. Local Parking Regulations Not Enforceable Where Sign Illegible or Not in Proper Position.) Local parking and other special regulations shall not be enforceable against an alleged violator if, at the time and place of the

alleged violation, an appropriate sign giving notice thereof is not in proper position and sufficiently legible to be seen by an ordinarily observant person. This section shall not apply to those municipalities which have adopted ordinances regulating parking and traffic therein under appropriate and general powers granted to them by sections 40-05-01 and 40-05-02 of the North Dakota Century Code.

§ 2. **Amendment.)** Section 39-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-04. Obedience to and Required Traffic-Control Devices.) The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter. No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a state statute does not state that signs are required, such statute shall be effective even though no signs are erected or in place. This section shall not apply to those municipalities which have adopted ordinances regulating parking and traffic therein under appropriate and general powers granted to them by sections 40-05-01 and 40-05-02 of the North Dakota Century Code.

Approved February 27, 1967.

CHAPTER 313

H. B. No. 547

(Giffey, Opedahl, Tweten, Winge)

(From LRC Study)

FINANCIAL RESPONSIBILITY FOR MOTOR VEHICLES

AN ACT

To create and enact chapter 39-16.1 and to amend and reenact section 39-16-05 of the North Dakota Century Code, relating to the financial responsibility of owners and operators of motor vehicles and the suspension of licenses, and to repeal subsection 9 of section 39-16-01 and sections 39-16-12, 39-16-13, 39-16-14, 39-16-15, 39-16-16, 39-16-17, 39-16-18, 39-16-19, 39-16-20, 39-16-21, 39-16-22, 39-16-23, 39-16-24, 39-16-25, 39-16-26, 39-16-27, and 39-16-28 of the North Dakota Century Code, relating to proof of financial responsibility.

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

§ 1. Amendment.) Section 39-16-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16-05. Suspension of License and When Not Applicable.)

The commissioner, within sixty days after the receipt of a report of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to the property of any one person in excess of one hundred dollars, shall suspend the license of each driver of each vehicle in any manner involved in such accident, and if such driver is a nonresident the privilege of operating a motor vehicle within this state unless such driver shall deposit security as provided in sections 39-16-09 and 39-16-10 in a sum which shall be sufficient in the judgment of the commissioner to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against such driver; provided notice of such suspension shall be sent by the commissioner to such driver not less than ten days prior to the effective date of such suspension and shall state the amount required as security. The commissioner may, however, stay, on application, the suspension of license provided for herein, for an additional period of not to exceed four months when an immediate suspension would result in hardship, or the facts presented to the commissioner indicate a doubt as to the liability of the party. This section shall not apply under the conditions stated in section 39-16-06 or to any of the following:

1. To such driver if such owner had in effect at the time of such accident an automobile liability policy with

respect to the motor vehicle involved in such accident, affording substantially the same coverage as is required for proof of financial responsibility under this chapter;

2. To such driver, if not the owner of such motor vehicle, if there was in effect at the time of such accident an automobile liability policy or bond with respect to his operation of motor vehicle, affording substantially the same coverage as required for proof of financial responsibility under this chapter;
3. To such driver if the liability of such driver for damages resulting from such accident is, in the judgment of the commissioner, covered by any other form of liability insurance policy or bond or certificate of self-insurance under section 39-16-32.

No such policy or bond shall be effective under this section unless by an insurance carrier or surety company authorized to do business in the state, except that if such motor vehicle was not registered in this state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy or bond, or the most recent renewal thereof, such policy or bond shall not be effective under this section unless the insurance carrier or surety company, if not authorized to do business in this state, shall execute a power of attorney authorizing the commissioner to accept service, on its behalf, of notice or process in any action upon such policy or bond arising out of such accident; provided, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than ten thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than twenty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property to a limit of not less than five thousand dollars because of injury to or destruction of property of others in any one accident. Upon receipt of notice of such accident, the insurance carrier or surety company which issued such policy or bond shall furnish for filing with the commissioner a written notice that such policy or bond was in effect at the time of such accident, or the department may rely upon the accuracy of the information and the required report of an accident as to the existence of insurance or a bond unless and until the department has reason to believe that the information is erroneous.

§ 2.) Chapter 39-16.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

CHAPTER 39-16.1

Proof of Financial Responsibility for the Future

39-16.1-01. Application.) The provisions of this chapter requiring the deposit of proof of financial responsibility for the future, subject to certain exemptions, shall apply with respect to persons who have been convicted of or forfeited bail for certain offenses under motor vehicle laws or who have failed to pay judgments upon causes of action arising out of ownership, maintenance, or use of vehicles of a type subject to registration under the laws of this state.

39-16.1-02. Definition of Proof of Financial Responsibility.) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of ten thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of twenty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of five thousand dollars because of injury to or destruction of property of others in any one accident.

39-16.1-03. Notice of Failure to Satisfy Judgment.) When any person fails within thirty days to satisfy any judgment, it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this state, to forward to the commissioner immediately after the expiration of said thirty days, a certified copy of such judgment and affidavit of identification. If the judgment debtor named in any certified copy of a judgment reported to the commissioner is a nonresident, the commissioner shall transmit a certified copy of the judgment to the official in charge of the issuance of drivers' licenses of the state of which the judgment debtor is a resident.

39-16.1-04. Suspension of License — Temporary Release.)

1. The commissioner, upon receipt of a certified copy of a judgment, shall forthwith suspend the license or any nonresident's operating privilege, of any person against whom such judgment was rendered except as hereinafter otherwise provided in this section and in section 39-16.1-06.

2. If the judgment creditor consents in writing, in such form as the commissioner may prescribe that the judgment debtor be allowed license or nonresident's operating privilege, the same may be allowed by the commissioner, in his discretion, for six months from the date of such consent and there-

after until such consent is revoked in writing, notwithstanding default in the payment of such judgment, or of any installments thereof prescribed in section 39-16.1-06 provided the judgment debtor furnishes proof of financial responsibility.

3. Any person whose license or nonresident's operating privilege has been suspended or is about to be suspended or shall become subject to suspension under the provisions of this chapter may be relieved from the effect of such judgment as hereinbefore prescribed in this chapter by filing with the commissioner an affidavit stating that at the time of the accident upon which such judgment has been rendered the affiant was insured, that the insurer is liable to pay such judgment, and the reason, if known, why such insurance carrier has not paid such judgment. Such person shall also file the original policy of insurance or a copy thereof, if available, and such other documents as the commissioner may require to show that the loss, injury, or damage for which such judgment was rendered, was covered by such policy of insurance. If the commissioner is satisfied from such papers that such insurer was authorized to issue such policy of insurance at the time and place of issuing such policy and that such insurer is liable to pay such judgment, at least to the extent and for the amounts required in this chapter, the commissioner shall not suspend such license or nonresident's operating privilege, or if already suspended shall reinstate them.

4. A license or nonresident's operating privilege shall remain suspended and shall not be renewed, nor shall any such license be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is satisfied in full or to the extent hereinafter provided and until the said person gives proof of financial responsibility subject to the exemptions stated in sections 39-16.1-04 and 39-16.1-06.

5. A discharge in bankruptcy following the rendering of any such judgment shall not relieve the judgment debtor from any of the requirements of this chapter.

39-16.1-05. Satisfaction of Judgment.) Judgments herein referred to shall, for the purpose of this chapter only, be deemed satisfied:

1. When ten thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident; or

2. When, subject to such limit of ten thousand dollars because of bodily injury to or death of one person, the sum of

twenty thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

3. When five thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of damage to or destruction of property of others as a result of any one accident. Payments made in settlement of any claims because of bodily injury, death or property damages arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section.

39-16.1-06. Installment Payments.) 1. A judgment debtor upon due notice to the judgment creditor may apply to the court in which such judgment was rendered for the privilege of paying such judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the installments.

2. The commissioner shall not suspend a license, or a non-resident's operating privilege, suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains such an order permitting the payment of such judgment in installments, and while the payment of any said installment is not in default.

3. In the event the judgment debtor fails to pay any installment as specified by such order, then upon notice of such default, the commissioner shall forthwith suspend the license, or nonresident's operating privilege of the judgment debtor until such judgment is satisfied as provided in this chapter.

39-16.1-07. Revocation of License for Reasons Other Than Provisions of This Chapter.) 1. Whenever the commissioner under any other law of this state, revokes the license of any person, such license shall remain revoked and shall not at any time thereafter be renewed nor shall any license be thereafter issued to such person, unless and until he shall give and thereafter maintain proof of financial responsibility.

2. If a person by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the revocation of license, or for operating a motor vehicle upon the highway while his privilege to drive is under suspension, revocation, or cancellation, or for driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders him incapable of safely driving a motor vehicle, no license shall be thereafter

issued to such person until he shall give and thereafter maintain proof of financial responsibility.

3. Whenever the commissioner revokes a nonresident's operating privilege by reason of a conviction or forfeiture of bail, such privilege shall remain so revoked unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility.

39-16.1-08. Proof of Financial Responsibility.) Proof of financial responsibility when required under this chapter may be given by filing:

1. A certificate of insurance as provided in sections 39-16.1-09 and 39-16.1-10; or
2. A bond as provided in section 39-16.1-14; or
3. A certificate of deposit of money or securities as provided in section 39-16.1-15.

39-16.1-09. Proof by Showing Insurance Coverage.) 1. Proof of financial responsibility may be furnished by filing with the commissioner the written certificate of any insurance carrier duly authorized to do business in this state certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all motor vehicles covered thereby, unless the policy is an operator's policy.

2. When a certificate is filed showing that a policy or policies have been issued covering certain described motor vehicles or a limited operator's policy but not insuring such person when operating all other motor vehicles, the commissioner shall designate suitable restriction upon the driver's license of such person authorizing the operation of only such vehicles as are covered by the certificate. It shall be unlawful for such person to operate any motor vehicle not covered by such certificate. In the event a person desires to be relieved of the foregoing restriction and to be permitted to operate any motor vehicle, he may have such restriction removed upon filing a certificate showing that there has been issued to him a motor vehicle liability policy insuring him against liability arising out of the use of any motor vehicle.

39-16.1-10. Nonresident Owner.) 1. The nonresident owner of a motor vehicle not registered in this state may give proof of financial responsibility by filing with the commissioner a

written certificate or certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in such certificate is registered, or if such nonresident does not own a motor vehicle, then in the state in which the insured resides, provided such certificate otherwise conforms to the provisions of this chapter, and the commissioner shall accept the same upon condition that said insurance carrier complies with the following provisions with respect to the policies so certified:

- a. Said insurance carrier shall execute a power of attorney authorizing the commissioner to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state;
- b. Said insurance carrier shall agree in writing that such policies shall be deemed to conform with the laws of this state relating to the terms of motor vehicle liability policies issued herein.

2. If any insurance carrier not authorized to transact business in this state, which has qualified to furnish proof of financial responsibility, defaults in any said undertaking or agreements, the commissioner shall not thereafter accept as proof any certificate of said carrier whether theretofore filed or thereafter tendered as proof, so long as such default continues.

39-16.1-11. Motor Vehicle Liability Policy.) 1. A "motor vehicle liability policy" as said term is used in this chapter shall mean an owner's or an operator's policy of liability insurance, certified as provided in sections 39-16.1-09 and 39-16.1-10 as proof of financial responsibility, and issued, except as otherwise provided in section 39-16.1-10, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

2. Such owner's policy of liability insurance:

- a. Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and
- b. Shall insure the person named therein and any other person, as insured, using such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as

follows: ten thousand dollars because of bodily injury to or death of one person in any one accident and subject to said limit for one person, twenty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and five thousand dollars because of injury to or destruction of property of others in any one accident.

3. Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle, either unlimited, or limited by excluding certain classes or types of motor vehicles, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

4. Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this chapter.

5. Such motor vehicle liability policy need not insure any liability under any workmen's compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any such motor vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

6. Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

- a. The liability of the insurance carrier with respect to the insurance required by this chapter shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy.
- b. The satisfaction by the insured of a judgment for such injury or damage shall not be a condition prece-

dent to the right or duty of the insurance carrier to make payment on account of such injury or damage.

- c. The insurance carrier shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in subsection 2, subdivision b, of this section for the accident out of which such claim arose.
- d. The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of this chapter shall constitute the entire contract between the parties.

7. Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage shall not be subject to the provisions of this chapter. With respect to a policy which grants such excess or additional coverage the term "motor vehicle policy" shall apply only to that part of the coverage which is required by this section.

8. Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this chapter.

9. Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

10. The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

11. Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such policy.

39-16.1-12. Notice of Proposed Cancellation of Policy by Insurer.) When an insurance carrier has certified a motor vehicle liability policy under sections 39-16.1-09 and 39-16.1-10, the insurance so certified shall not be canceled or terminated until at least ten days after a notice of cancellation or termination of the insurance so certified shall be filed in the office of the commissioner, except that such 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.

39-16.1-13. Other Laws Requiring Insurance.) 1. This chapter does not apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this state, and such policies, if they contain an agreement or are endorsed to conform to the requirements of this chapter, may be certified as proof of financial responsibility under this chapter.

2. This chapter shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on his behalf of motor vehicles not owned by the insured.

39-16.1-14. Financial Responsibility May Be Evidenced by Bond.) 1. Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within this state, or a bond with at least two individual sureties each owning real estate not exempt from execution of a value twice the amount of such bond, which real estate shall be scheduled in the bond approved by a judge of a court of record, and recorded in the office of the register of deeds of each county in which such real estate is situated, which said bond shall be conditioned for payment of the amounts specified in section 39-16.1-02. Such bond shall be filed with the commissioner and shall not be cancelable except after ten days' written notice to the commissioner. Such bond shall constitute a lien in favor of the state upon the real estate so scheduled of any surety, which lien shall exist for the benefit of any holder of a final judgment against the person who has filed such bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle after such bond is recorded.

2. If such judgment rendered against the principal on such bond shall not be satisfied within sixty days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action or actions in his own name against the company or persons executing such bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond.

39-16.1-15. Deposit of Cash with State Treasurer.) 1. Proof of financial responsibility may be evidenced by the certificate of the state treasurer that the person named therein has deposited with him twenty-five thousand dollars in cash, or securities such as may legally be purchased by savings banks

or for trust funds of a market value of twenty-five thousand dollars. The state treasurer shall not accept any such deposit and issue a certificate therefor and the commissioner shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

2. Such deposit shall be held by the state treasurer to satisfy, in accordance with the provisions of this chapter, any execution on a judgment issued against such person making the deposit for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of damages to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a motor vehicle after such deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages as aforesaid.

39-16.1-16. Employment of Family Connection in Lieu of Proof of Financial Responsibility.) Whenever any person required to give proof of financial responsibility hereunder is or later becomes an operator in the employ of any owner, or is or later becomes a member of the immediate family or household of the owner, the commissioner shall accept proof given by such owner in lieu of proof by such other person to permit such other person to operate a motor vehicle for which the owner has given proof as herein provided. The commissioner shall designate the restrictions imposed by this section on the face of such person's license.

39-16.1-17. Release of Bond or Deposit on Making Other Proof of Responsibility.) 1. The commissioner shall consent to the cancellation of any bond or certificate of insurance or the commissioner shall direct and the state treasurer shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter.

2. The commissioner shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed such bond or deposited such money or securities has, within one year immediately preceding such request been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he

has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the commissioner.

39-16.1-18. Procedure on Failure of Proof on File.) Whenever any proof of financial responsibility filed under the provisions of this chapter no longer fulfills the purposes for which required, the commissioner shall, for the purpose of this chapter, require other proof as required by this chapter and shall suspend the license or the nonresident's operating privilege upon failure to file such other proof as required.

39-16.1-19. Cancellation of Bond or Return of Deposit.) 1. The commissioner shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the commissioner shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this chapter as proof of financial responsibility, or the commissioner shall waive the requirement of filing proof, in any of the following events:

- a. At any time after five years from the date such proof was required when, during the five-year period preceding the request, the commissioner has not received record of a conviction or a forfeiture of bail which would require the revocation of the license, or nonresident's operating privilege of the person by or for whom such proof was furnished; or
 - b. The death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or
 - c. The surrender of his license to the commissioner by the person who has given proof.
2. The commissioner shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed such bond or deposited such money or securities has, within one year immediately preceding such request been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the commissioner.

3. Whenever any person whose proof has been canceled or returned under subdivision c of subsection 1 of this section applies for a license within a period of five years from the date proof was originally required, any such application shall be refused unless the applicant shall re-establish such proof for the remainder of such five-year period.

39-16.1-20. Seizure or Return of Driver's License.) Any person whose license is suspended as herein provided, or whose policy of insurance or bond, when required under this chapter, is canceled or terminated, or who neglects to furnish other proof upon request of the commissioner shall immediately return his license to the commissioner. If any person fails to return to the commissioner the license as provided herein, the commissioner shall forthwith direct any peace officer to secure possession thereof and return the same to the commissioner.

39-16.1-21. Misdemeanor.) 1. It is a misdemeanor for any person whose license or nonresident's operating privilege has been suspended or revoked under this chapter to drive any motor vehicle upon any highway except as permitted under this chapter during such suspension or revocation.

2. It is a misdemeanor for any person to violate any of the provisions of this chapter.

39-16.1-22. Federal—State or Municipal Ownership.) This chapter does not apply with respect to any motor vehicle owned and operated by the United States, this state, or any political subdivision of this state or any municipality therein.

39-16.1-23. Who May Be Self-Insurer.) 1. Any person in whose name more than twenty-five motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the commissioner as provided in subsection 2 of this section.

2. The commissioner may, upon the application of any person, issue a certificate of self-insurance when he is satisfied that such person is possessed and will continue to be possessed of ability to pay any judgment obtained against him.

3. Upon not less than five days' notice and a hearing pursuant to such notice, the commissioner may cancel a certificate of self-insurance if he is satisfied that such person is not possessed or will not continue to be possessed of ability to pay any judgment obtained against him. Failure to pay any judgment within thirty days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

§ 3. Repeal.) Subsection 9 of section 39-16-01 and sections 39-16-12, 39-16-13, 39-16-14, 39-16-15, 39-16-16, 39-16-17, 39-16-18, 39-16-19, 39-16-20, 39-16-21, 39-16-22, 39-16-23, 39-16-24, 39-16-25, 39-16-26, 39-16-27, and 39-16-28 of the North Dakota Century Code are hereby repealed.

Approved February 22, 1967.

CHAPTER 314

S. B. No. 134
(Torgerson, Becker)

DISSEMINATION OF DRIVER ABSTRACTS

AN ACT

To create and enact section 39-16-03.1 of the North Dakota Century Code, precluding the public dissemination of driver abstracts containing entries more than five years old except by a court order.

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

§ 1.) Section 39-16-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-16-03.1. Entries on Driver Record Abstracts More Than Five Years Old Confidential.) Notwithstanding any other provisions of this chapter, no entry more than five years old on a driver record or abstract shall be available to the public, except for statistical purposes, other than by order of a court of competent jurisdiction.

Approved February 22, 1967.

CHAPTER 315

S. B. No. 374

(Longmire)

AMOUNT PAYABLE FROM UNSATISFIED JUDGMENT FUND

AN ACT

To amend and reenact section 39-17-07 of the 1965 Supplement to the North Dakota Century Code, relating to limitation on the amount payable from the unsatisfied judgment fund.

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

§ 1. **Amendment.)** Section 39-17-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-17-07. Limitation on Amount Payable from Fund—Non-assignable.) No order shall be made by the court directing the payment of more than ten thousand dollars, exclusive of costs, in the case of a judgment resulting from bodily injury to, or the death of, one person in one accident, nor, subject to such limit of ten thousand dollars for each person so injured or killed in one accident, shall an order be made directing the payment of judgments for more than twenty thousand dollars, exclusive of costs, in cases arising out of one accident. In cases where the judgment creditor has effected the collection of a part of his judgment from any source, the amount authorized to be paid from such fund shall be the difference between ten thousand dollars or the amount of the judgment, whichever is smaller and the amount realized thereon. Provided that in computing the amount authorized to be paid from the fund, any amount the judgment creditor has received from an uninsured motorist insurance policy or the workmen's compensation bureau shall be subtracted from the amount of the judgment before applying the above formula.

The right of any person to recover from the unsatisfied judgment fund shall not be assignable and subrogation of such right shall not be allowed.

Approved March 14, 1967.

CHAPTER 316

S. B. No. 71

(Becker, Torgerson)

MEMBERSHIP OF RECIPROCITY COMMISSION

AN ACT

To amend and reenact section 39-19-01 of the North Dakota Century Code, relating to the membership, powers, and duties of the reciprocity commission and declaring an emergency.

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

§ 1. **Amendment.)** Section 39-19-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-19-01. Reciprocity Commission — Membership — Substitute Membership—Powers and Duties.) The reciprocity commission shall consist of the state highway commissioner, the motor vehicle registrar, the superintendent of the state highway patrol, the state auditor, and a member of the public service commission. Each regular member of the reciprocity commission may appoint his own substitute to act for him in his absence. This commission shall have the power and duty to execute agreements, arrangements, or declarations involving the reciprocal use of the highways of this state by vehicles excepted in part or in full from registration requirements or mile tax payments in lieu thereof. The commission shall also have the power to enter into reciprocal agreements with the appropriate officials of any other state under which it may waive all or any part of the requirements imposed by the laws or statutes of this state upon those who use or consume in the state of North Dakota gasoline, other motor vehicle fuel or special fuel upon which the tax has been paid to such other state, provided that the officials of such other state grant equivalent privileges with respect to gasoline, other motor vehicle fuel or special fuel used in such other state but upon which the tax has been paid to the state of North Dakota.

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

Approved March 3, 1967.

CHAPTER 317

H. B. No. 571
(Solberg(2), Opedahl)

MOTOR VEHICLE EQUIPMENT

AN ACT

To amend and reenact subsection 1 of section 39-21-29 of the North Dakota Century Code, relating to motor vehicle equipment.

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

§ 1. Amendment.) Subsection 1 of section 39-21-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. No person shall have for sale, sell or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer, or use upon any such vehicle any head lamp, auxiliary, or fog lamp, rear lamp, signal lamp or reflector, which reflector is required hereunder, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been approved by the registrar. The foregoing provisions of this section shall not apply to equipment in actual use when this section is adopted or replacement parts therefor.

Approved February 21, 1967.

CHAPTER 318

H. B. No. 572
(Solberg(2), Opedahl)

AUTHORITY OF REGISTRAR AS TO MOTOR VEHICLE
EQUIPMENT

AN ACT

To amend and reenact subsection 3 of section 39-21-30 of the North Dakota Century Code, relating to motor vehicle equipment.

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

§ 1. Amendment.) Subsection 3 of section 39-21-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The registrar may set up the procedure which shall be followed when approval is sought for any device.

Approved February 21, 1967.

CHAPTER 319

H. B. No. 559

(Winge, Boustead, Olienyk, Tweten)

BRAKE EQUIPMENT REQUIRED ON MOTOR VEHICLES

AN ACT

To amend and reenact subsection 4 of section 39-21-32 of the 1965 Supplement to the North Dakota Century Code, relating to brake equipment required on motor vehicles.

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

§ 1. Amendment.) Subsection 4 of section 39-21-32 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. One of the means of brake operation shall be parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes.

Approved February 22, 1967.

CHAPTER 320

H. B. No. 702
(Kuehn, Kelsch)

RESTRICTIONS AS TO TIRE EQUIPMENT

AN ACT

To amend and reenact section 39-21-40 of the 1965 Supplement to the North Dakota Century Code, relating to restrictions as to tire equipment.

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

§ 1. Amendment.) Section 39-21-40 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-40. Restrictions as to Tire Equipment.) 1. Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

2. No person shall operate or move on any highway any motor vehicle, trailer or semitrailer having any metal tire in contact with the roadway.

3. No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway, and except also that it shall be permissible to use tire chains of reasonable proportions. It shall also be permissible to use, from October fifteen to April fifteen, pneumatic tires which have metal studs which do not project more than one-sixteenth of an inch beyond the tread of the traction surface of the tire.

Approved March 3, 1967.

CHAPTER 321

S. B. No. 306

(Kautzmann)

DISTRESS SIGNALS FOR HANDICAPPED DRIVERS

AN ACT

To provide for distress signals for handicapped drivers, and providing a penalty.

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

§ 1. Distress Signals for Handicapped Drivers.) Physically handicapped drivers of motor vehicles are hereby authorized, when getting into and out of such vehicles or when such vehicle is in distress, to display a white flag of approximately seven and one-half inches in width and thirteen inches in length, with the letter "H" thereon in red color with an irregular one-half inch red border. Said flag shall be of reflective material so as to be readily discernible under darkened conditions.

§ 2. Director of Safety Responsibility Division of Highway Department to Provide Distress Flags.) The director of the safety responsibility division of the highway department may, upon application and payment of a fee of one dollar, issue to any physically handicapped person a distress flag as described in section 1 of this Act, and a card which shall be the applicant's authority to use such flag. The card shall set forth the applicant's name, address, date of birth, physical apparatus, if any, needed to operate a motor vehicle, and other pertinent facts which the director deems desirable. The card and flag issued to an applicant shall bear corresponding numbers. In the event of loss or destruction of such flag a replacement may be issued upon the payment of the sum of one dollar by the applicant. The director of public safety shall maintain a list of those persons to whom distress flags and cards have been issued.

§ 3. Definition of Physically Handicapped.) "Physically handicapped" as employed herein shall include any person who has sustained an amputation or material disability of either or both arms or of either or both legs, or who has been otherwise disabled in any manner rendering it difficult and burdensome for him to walk.

§ 4. Penalty for Unauthorized Use.) Any person who is not physically handicapped who uses the above-mentioned flag

as a distress signal or for any other purpose shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding one hundred dollars.

Approved March 14, 1967.

CHAPTER 322

H. B. No. 595

(Aas, Allen, Peterson)

MOTORCYCLE RIDER'S EQUIPMENT AND ALLOWABLE NUMBER OF RIDERS PERMITTED

AN ACT

To require motorcycle operators and passengers to wear protective helmets and to preclude the carrying of passengers on certain two-wheel motorcycles.

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

§ 1. Crash Helmets Required for Operators of and Passengers on Motorcycles.) Every operator of and passenger on a motorcycle, as defined by subsection 32a of section 39-01-01 of the North Dakota Century Code, shall at all times when such motorcycle is in motion be required to wear a crash helmet of a type and meeting the standards approved and established by the motor vehicle registrar, provided, however, such helmets shall not be required to be worn when such motorcycle is driven in a parade or ceremonial conducted or permitted under local ordinances.

§ 2. Number of Riders on Motorcycles Limited.) No motorcycle, as defined by subsection 32a of section 39-01-01 of the North Dakota Century Code, designed to travel with fewer than three wheels in contact with the ground, shall be operated with more than one person thereon except that a motorcycle may be operated with not more than two persons riding thereon if such motorcycle is designed specifically for the purpose of carrying more than one person. The motor vehicle registrar shall promulgate by rules and regulations the specifications that a motorcycle must meet in order for two persons to ride on such motorcycle.

Approved March 14, 1967.