

Fifty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1043

Introduced by

Legislative Council

(Criminal Justice Committee)

(Representatives R. Kelsch, Stenehjem, Bernstein, Mahoney)
(Senators W. Stenehjem, Nalewaja)

1 A BILL for an Act to amend and reenact section 39-06-35, subsections 3.1, 4, 5, 6, and 7 of
2 section 39-06.1-10, and section 39-06.1-11 of the North Dakota Century Code, relating to
3 alcohol addiction evaluation for driving while under the influence.

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

5 **SECTION 1. AMENDMENT.** Section 39-06-35 of the 1995 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **39-06-35. Period of suspension.** When the period of suspension imposed under this
8 title ceases, the operator's license or driving privilege that has been suspended may not be
9 returned or reinstated, and remains under suspension, until the operator pays to the director a
10 reinstatement fee of twenty-five dollars, or fifty dollars if the suspension was the result of a
11 violation under section 39-08-01 or chapter 39-20, and, if applicable, until ~~the provisions of~~
12 compliance with subsection ~~3.1 4~~ 4 of section 39-06.1-10 ~~have been complied with~~. Upon
13 payment of the reinstatement fee the license must be returned to the operator. A reinstatement
14 fee is not required for a license to be returned to the operator if the return of the license is due
15 to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter
16 39-06, 39-06.1, or 39-20.

17 **SECTION 2. AMENDMENT.** Subsections 3.1, 4, 5, 6, and 7 of section 39-06.1-10 of
18 the 1995 Supplement to the North Dakota Century Code are amended and reenacted as
19 follows:

20 ~~3.1.~~ 4. a. If ~~the commissioner is informed by a court that a person~~ informs the director
21 an individual has been convicted of violating section 39-08-01 or equivalent
22 ordinance, or if an individual's license to operate a motor vehicle is suspended
23 or revoked under chapter 39-20, the ~~commissioner~~ director, subject to the
24 ~~offender's~~ individual's opportunity for hearing under subsection 1, may not

1 restore the ~~operator's~~ individual's license ~~to the offender~~ until the ~~offender~~
2 individual furnishes to the ~~commissioner~~ director the written statement of the
3 counselor or instructor of an appropriate licensed addiction treatment program
4 ~~that the offender~~ which states the individual does not require either ~~an a~~
5 program of education or treatment ~~program~~ or ~~that states the offender~~
6 individual has physically attended the prescribed program and has complied
7 with the attendance rules. The ~~commissioner~~ director shall send notice to the
8 ~~offender~~ individual informing the ~~offender~~ individual of the provisions of this
9 subsection.

- 10 b. If within the seven years preceding the most recent violation of section
11 39-08-01, or equivalent ordinance, the ~~offender~~ individual has previously
12 violated section 39-08-01, or equivalent ordinance, at least three times, the
13 ~~commissioner~~ director may restore driving privileges ~~to the offender~~ only after
14 ~~that person~~ the individual has completed addiction treatment through an
15 appropriate licensed addiction treatment program and has had no
16 alcohol-related or drug-related offense for two consecutive years after
17 completion of treatment.

- 18 ~~4.~~ 5. If judicial disposition of a traffic violation includes an order or recommendation of
19 suspension or revocation of an operator's license, the suspension or revocation
20 runs concurrently with any suspension ordered under this section. After a
21 conviction of ~~a person~~ an individual for violating section 39-08-01, the
22 ~~commissioner~~ director shall, in suspending the ~~person's operator's~~ individual's
23 license to operate a motor vehicle, give credit for the time in which license
24 suspension or revocation has been or is being imposed under chapter 39-20 in
25 connection with the same offense.

- 26 ~~5.~~ 6. A suspension ~~must be deemed to have commenced~~ commences twenty days after
27 the order of suspension is delivered to the ~~licensee at his~~ licensee's address of
28 record in the department. Constructive delivery under this section ~~must be~~
29 ~~considered as occurring~~ occurs seventy-two hours after proper deposit in the
30 mails.

6- 7. Points assigned pursuant to this section must be recorded against an ~~operator's~~
~~individual's~~ driving record regardless of whether ~~he~~ the individual has ever had ~~an~~
~~operator's~~ a license to operate a motor vehicle issued in this state, ~~and the~~
~~licensing authority~~. The director shall maintain records on all violators regardless
of whether they are licensed to operate a motor vehicle. Upon the assignment of
twelve or more points, any ~~unlicensed operator must be deemed to be~~ individual
without a license to operate a motor vehicle is driving under suspension ~~if he has~~
~~never had an operator's license or if he has failed to renew his license.~~

7- 8. The period of suspension imposed for a violation of section 39-08-01 or equivalent
ordinance is:

- a. Ninety-one days if the operator's record shows the person has not violated
section 39-08-01 or equivalent ordinance within the five years preceding the
last violation.
- b. Three hundred sixty-five days if the operator's record shows the person has
once violated section 39-08-01 or equivalent ordinance within the five years
preceding the last violation.
- c. Two years if the operator's record shows the person has at least twice
violated section 39-08-01 or equivalent ordinance within the five years
preceding the last violation.

SECTION 3. AMENDMENT. Section 39-06.1-11 of the 1995 Supplement to the North
Dakota Century Code is amended and reenacted as follows:

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

1. Except as provided under subsection 2, if the ~~licensing authority~~ director has
suspended a license under section 39-06.1-10, or if the ~~commissioner~~ director has
extended a suspension or revocation under section 39-06-43, for more than seven
days, the ~~authority~~ director may, for good cause, upon receiving written application
from the offender affected, issue a temporary restricted operator's license valid
after seven days of the suspension period have passed, for the remainder of the
suspension period.
2. If the ~~licensing authority~~ director has suspended a license under chapter 39-20, or
after a violation of section 39-08-01 or equivalent ordinance, the ~~authority~~ director

1 may, in accordance with this section, for good cause, and upon written application
2 of the offender, issue a temporary restricted license which takes effect after thirty
3 days of the suspension have been served after a first offense under section
4 39-08-01 or chapter 39-20. The ~~licensing authority~~ director may not issue a
5 temporary restricted license to any offender whose operator's license has been
6 suspended upon a second or subsequent offense under section 39-08-01 or
7 chapter 39-20, except that a temporary restricted license may be issued for good
8 cause if no offenses have been committed for a period of two years before the date
9 of the filing of a written application accompanied by a report from an addiction
10 facility. The ~~commissioner~~ director may conduct a hearing for the purposes of
11 obtaining information, reports, and evaluations from courts, law enforcement, and
12 citizens to determine the offender's conduct and driving behavior for the two-year
13 period. The ~~commissioner~~ director may also require that an ignition interlock
14 device be installed in the offender's vehicle. The ~~licensing authority~~ director may
15 not issue a temporary restricted license for a period of license revocation or
16 suspension imposed under subsection 5 of section 39-06-17, section 39-06-31,
17 subsection ~~3-4~~ 4 of section 39-06.1-10, or section 39-20-04. A temporary
18 restricted license may be issued for suspensions ordered under subsection 7 of
19 section 39-06-32 if it could have been issued had the suspension resulted from
20 in-state conduct, but no temporary restricted license may be issued for
21 suspensions ordered under subsection 4 of section 39-06-32.

- 22 3. A restricted license issued under this section may authorize the use of a motor
23 vehicle only during the licensee's normal working hours, or may contain any other
24 restrictions authorized by section 39-06-17. Violation of a restriction imposed
25 according to this section is deemed a violation of section 39-06-17.