

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2345

Introduced by

Senator W. Stenehjem

Representative Delmore

1 A BILL for an Act to amend and reenact section 20.1-13.1-03, subsection 8 of section
2 20.1-13.1-10, sections 20.1-13.1-13, 20.1-15-03, subsection 10 of section 20.1-15-11, sections
3 20.1-15-14, 39-20-02, subsection 10 of section 39-20-07, sections 39-20-12, 39-24.1-03,
4 subsection 8 of section 39-24.1-08, and section 39-24.1-11 of the North Dakota Century Code,
5 relating to blood tests for driving while under the influence.

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

7 **SECTION 1. AMENDMENT.** Section 20.1-13.1-03 of the North Dakota Century Code
8 is amended and reenacted as follows:

9 **20.1-13.1-03. Persons qualified to administer chemical test and opportunity for**
10 **additional test.** Only ~~a physician, or a qualified technician, chemist, or registered nurse~~ an
11 individual medically qualified to draw blood, acting at the request of a game warden or a law
12 enforcement officer, may withdraw blood for the purpose of determining the alcoholic, drug, or
13 combination thereof, content of the blood. The state toxicologist shall determine the
14 qualifications or credentials for being medically qualified to draw blood, and shall issue a list of
15 approved designations including medical doctor and registered nurse. This limitation does not
16 apply to the taking of a breath, saliva, or urine specimen. The person tested may have a
17 ~~physician, or a qualified technician, chemist, registered nurse, or other qualified person~~ an
18 individual of that person's own choosing, who is medically qualified to draw blood, administer a
19 chemical test in addition to any administered at the direction of a game warden or a law
20 enforcement officer with all costs of the additional chemical test to be the responsibility of the
21 person charged. The failure or inability to obtain an additional chemical test by a person does
22 not preclude the admission of the chemical test taken at the direction of a game warden or a
23 law enforcement officer. Upon the request of the person who is tested, a copy of the
24 operational checklist and test record of a breath sample test or analytical report of a blood,

urine, or saliva sample test taken at the direction of the game warden or law enforcement officer must be made available to that person by the department or law enforcement agency that administered the chemical test.

SECTION 2. AMENDMENT. Subsection 8 of section 20.1-13.1-10 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

8. A signed statement from the ~~nurse or medical technician drawing~~ individual medically qualified to draw the blood sample for testing as set forth in subsection 3 is prima facie evidence that the blood sample was properly drawn and no further foundation for the admission of ~~such~~ this evidence may be required.

SECTION 3. AMENDMENT. Section 20.1-13.1-13 of the North Dakota Century Code is amended and reenacted as follows:

20.1-13.1-13. Liability. Any individual medically qualified to draw blood or any licensed physician, nurse, technician, or an employee of a hospital who draws blood from any person pursuant to a request of any arresting warden or officer is not liable in any civil action for damages arising out of the act except for gross negligence.

SECTION 4. AMENDMENT. Section 20.1-15-03 of the North Dakota Century Code is amended and reenacted as follows:

20.1-15-03. Persons qualified to administer chemical test and opportunity for additional test. Only ~~a physician, or a qualified technician, chemist, or registered nurse~~ an individual medically qualified to draw blood, acting at the request of a game warden or a law enforcement officer, may withdraw blood for the purpose of determining the alcoholic, drug, or combination thereof, content of the blood. The state toxicologist shall determine the qualifications or credentials for being medically qualified to draw blood, and shall issue a list of approved designations including medical doctor and registered nurse. This limitation does not apply to the taking of a breath, saliva, or urine specimen. The person tested may have ~~a physician, or a qualified technician, chemist, registered nurse, or other qualified person~~ an individual of that person's own choosing, who is medically qualified to draw blood, administer a chemical test in addition to any administered at the direction of a game warden or a law enforcement officer with all costs of the additional chemical test to be the responsibility of the person charged. The failure or inability to obtain an additional chemical test by a person does not preclude the admission of the chemical test taken at the direction of a game warden or a

1 law enforcement officer. Upon the request of the person who is tested, a copy of the
2 operational checklist and test record of a breath sample test or analytical report of a blood,
3 urine, or saliva sample test taken at the direction of the game warden or law enforcement
4 officer must be made available to that person by the department or law enforcement agency
5 that administered the chemical test.

6 **SECTION 5. AMENDMENT.** Subsection 10 of section 20.1-15-11 of the 1997
7 Supplement to the North Dakota Century Code is amended and reenacted as follows:

8 10. A signed statement from the ~~nurse or medical technician drawing~~ individual
9 medically qualified to draw the blood sample for testing as set forth in subsection 5
10 is prima facie evidence that the blood sample was properly drawn and no further
11 foundation for the admission of ~~such~~ this evidence may be required.

12 **SECTION 6. AMENDMENT.** Section 20.1-15-14 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **20.1-15-14. Liability.** Any individual medically qualified to draw blood or any licensed
15 physician, nurse, technician, or an employee of a hospital who draws blood from any person
16 pursuant to a request of any arresting warden or officer is not liable in any civil action for
17 damages arising out of the act except for gross negligence.

18 **SECTION 7. AMENDMENT.** Section 39-20-02 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **39-20-02. Persons qualified to administer test and opportunity for additional test.**
21 Only ~~a physician, or a qualified technician, chemist, or registered nurse~~ an individual medically
22 qualified to draw blood, acting at the request of a law enforcement officer, may withdraw blood
23 for the purpose of determining the alcohol, drug, or combination thereof, content therein. The
24 state toxicologist shall determine the qualifications or credentials for being medically qualified to
25 draw blood, and shall issue a list of approved designations including medical doctor and
26 registered nurse. This limitation does not apply to the taking of breath, saliva, or urine
27 specimen. The person tested may have ~~a physician, or a qualified technician, chemist,~~
28 ~~registered nurse, or other qualified person~~ an individual of the person's choosing, who is
29 medically qualified to draw blood, administer a chemical test or tests in addition to any
30 administered at the direction of a law enforcement officer with all costs of an additional test or
31 tests to be the sole responsibility of the person charged. The failure or inability to obtain an

1 additional test by a person does not preclude the admission of the test or tests taken at the
2 direction of a law enforcement officer. Upon the request of the person who is tested, a copy of
3 the operational checklist and test record of a breath sample test or analytical report of a blood,
4 urine, or saliva sample test taken at the direction of the law enforcement officer must be made
5 available to that person by the law enforcement agency ~~which~~ that administered the test or
6 tests.

7 **SECTION 8. AMENDMENT.** Subsection 10 of section 39-20-07 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 10. A signed statement from the ~~nurse or medical technician drawing~~ individual
10 medically qualified to draw the blood sample for testing as set forth in subsection 5
11 is prima facie evidence that the blood sample was properly drawn and no further
12 foundation for the admission of ~~such~~ this evidence may be required.

13 **SECTION 9. AMENDMENT.** Section 39-20-12 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **39-20-12. Liability.** Any individual medically qualified to draw blood or any licensed
16 physician, nurse, technician, or an employee of a hospital who draws blood from any person
17 pursuant to a request of any arresting officer is not liable in any civil action for damages arising
18 out of said act except for gross negligence.

19 **SECTION 10. AMENDMENT.** Section 39-24.1-03 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **39-24.1-03. Persons qualified to administer chemical test and opportunity for**
22 **additional test.** Only ~~a physician, or a qualified technician, chemist, or registered nurse~~ an
23 individual medically qualified to draw blood, acting at the request of a law enforcement officer,
24 may withdraw blood for the purpose of determining the alcohol, drug, or combination thereof,
25 content of the blood. The state toxicologist shall determine the qualifications or credentials for
26 being medically qualified to draw blood, and shall issue a list of approved designations
27 including medical doctor and registered nurse. This limitation does not apply to the taking of a
28 breath, saliva, or urine specimen. The person tested may have ~~a physician, or a qualified~~
29 ~~technician, chemist, registered nurse, or other qualified person~~ an individual of that person's
30 own choosing, who is medically qualified to draw blood, administer a chemical test in addition
31 to any administered at the direction of a law enforcement officer with all costs of the additional

1 chemical test to be the responsibility of the person charged. The failure or inability to obtain an
2 additional chemical test by a person does not preclude the admission of the chemical test taken
3 at the direction of a law enforcement officer. Upon the request of the person who is tested, a
4 copy of the operational checklist and test record of a breath sample test or analytical report of a
5 blood, urine, or saliva sample test taken at the direction of the law enforcement officer must be
6 made available to that person by the law enforcement agency that administered the chemical
7 test.

8 **SECTION 11. AMENDMENT.** Subsection 8 of section 39-24.1-08 of the North Dakota
9 Century Code is amended and reenacted as follows:

- 10 8. A signed statement from the ~~nurse or medical technician drawing~~ individual
11 medically qualified to draw the blood sample for testing as set forth in subsection 3
12 is prima facie evidence that the blood sample was properly drawn and no further
13 foundation for the admission of ~~such~~ this evidence may be required.

14 **SECTION 12. AMENDMENT.** Section 39-24.1-11 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **39-24.1-11. Liability.** Any individual medically qualified to draw blood or any licensed
17 physician, nurse, technician, or an employee of a hospital who draws blood from any person
18 pursuant to a request of any arresting officer is not liable in any civil action for damages arising
19 out of the act except for gross negligence.