

Fifty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1182

Introduced by

Transportation Committee

(At the request of the Department of Transportation)

1 A BILL for an Act to amend and reenact subsections 1 and 4 of section 23-07-01.1,
2 subsection 1 of section 39-06-03.1, subsections 1, 2, and 3 of section 39-06-07.2, section
3 39-06-27, subsections 4, 6, and 7 of section 39-06-32, subsection 1 of section 39-06-33, and
4 subsection 1 of section 39-20-05 of the North Dakota Century Code, relating to reporting of
5 physical or mental disorders to the department of transportation, nondriver photo identification
6 cards, medical advice to the director, reporting of conviction, suspension, or revocation, or
7 failure to appear by other jurisdictions, hearings on suspension or revocation for unlawful use of
8 licenses, and time for holding hearings.

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

10 **SECTION 1. AMENDMENT.** Subsections 1 and 4 of section 23-07-01.1 of the 1997
11 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- 12 1. All physicians and other medical professionals may report immediately to the
13 department of transportation in writing, the name, date of birth, and address of
14 every person fourteen years of age or over coming before them for examination,
15 attendance, care, or treatment when there is reasonable cause to believe that such
16 person due to physical or mental reason is incapable of safely operating a motor
17 vehicle or diagnosed as a case of a disorder defined as characterized by lapses of
18 consciousness, gross physical or mental impairments.
- 19 4. Any physician or other medical professional who fails to make a report or who in
20 good faith makes a report, gives an opinion or recommendation pursuant to this
21 section, or participates in any proceeding founded upon this section is immune
22 from any liability, civil or criminal, that might otherwise be incurred, as a result of
23 such report, except for perjury.

1 **SECTION 2. AMENDMENT.** Subsection 1 of section 39-06-03.1 of the North Dakota
2 Century Code is amended and reenacted as follows:

- 3 1. The director shall issue upon request a nondriver color photo identification card to
4 any North Dakota resident ~~of the age of twelve years or over~~ who fulfills the
5 requirements of this section. ~~The director may issue upon request a nondriver~~
6 ~~color photo identification card to any North Dakota resident under twelve years of~~
7 ~~age who fulfills the requirements of this section, except that the form of verification~~
8 ~~of the name and the date of birth is in the director's discretion, as is the manner in~~
9 ~~which the records are kept. A nondriver color photo identification card issued to a~~
10 ~~resident under twelve years of age expires on the twelfth birthday of that resident.~~
11 If the person is under the age of twenty-one, the photo must be against the same
12 color background required on a motor vehicle operator's license of an operator
13 under the age of twenty-one years.

14 **SECTION 3. AMENDMENT.** Subsections 1, 2, and 3 of section 39-06-07.2 of the
15 North Dakota Century Code are amended and reenacted as follows:

- 16 1. The director is authorized to seek professional medical advice from any physician
17 or optometrist authorized to practice in this state, and to use that advice in
18 decisions made by the director in regard to the issuance, renewal, suspension,
19 revocation, or cancellation of driver's licenses pursuant to this chapter. The advice
20 may be received in any manner deemed advisable by the director or the director's
21 authorized agent.
- 22 2. In addition to advice sought and received pursuant to subsection 1, the director
23 may consider information and advice received from an individual applicant's or
24 driver's personal physician or optometrist. Any examination and report requested
25 by the applicant or driver or required to be taken and provided by the director
26 pursuant to this chapter must be at the expense of the applicant or driver.
- 27 3. Any physician or optometrist providing advice to the director or director's
28 authorized agent pursuant to subsection 1 shall incur no liability for any opinion,
29 recommendation, or advice provided.

30 **SECTION 4. AMENDMENT.** Section 39-06-27 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **39-06-27. Suspending licenses upon conviction, suspension, or revocation in**
2 **another state jurisdiction.** The director may suspend or revoke the license of any resident of
3 this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving
4 notice of the conviction of ~~such~~ that person in another ~~state~~ jurisdiction of an offense therein
5 which, if committed in this state, would be grounds for the suspension or revocation of the
6 license of an operator. This section may not be construed as authorizing the assessment of
7 points against a resident driver's record in accordance with chapter 39-06.1, except upon
8 conviction of a resident driver for a criminal offense in another ~~state~~ jurisdiction which is
9 equivalent to one of those offenses defined in section 39-06.1-05. ~~No~~ A suspension or
10 revocation may not be imposed for convictions for driving under suspension or revocation in
11 another ~~state~~ jurisdiction if a valid North Dakota license or permit was in effect at the time of the
12 violation. For ~~the~~ purposes of this section, originals, photostatic copies, or electronic
13 transmissions of the records of the drivers licensing authority of the other jurisdiction are
14 sufficient evidence whether or not they are certified copies.

15 Upon receipt of a certification that the operating privileges of a resident of this state
16 have been suspended or revoked in any other ~~state~~ jurisdiction pursuant to a law providing for
17 the suspension or revocation for failure to deposit security for the payment of judgments arising
18 out of a motor vehicle accident, under circumstances ~~which~~ that would require the director to
19 suspend a nonresident's operating privileges had the accident occurred in this state, the
20 director shall suspend the license of ~~such~~ the resident if the resident was the driver of a motor
21 vehicle involved in ~~such~~ the accident. ~~Such~~ The suspension continues until ~~such~~ the resident
22 furnishes evidence satisfactory to the director of the person's compliance with the laws of such
23 other ~~state~~ jurisdiction relating to the deposit of security or payment of a judgment arising out of
24 a motor vehicle accident, to the extent that ~~such~~ compliance would be required if the accident
25 had occurred in this state.

26 **SECTION 5. AMENDMENT.** Subsections 4, 6, and 7 of section 39-06-32 of the North
27 Dakota Century Code are amended and reenacted as follows:

- 28 4. Refusal to submit to an implied consent chemical test in another ~~state~~ jurisdiction.
29 For purposes of this subsection the specific requirements for establishing a refusal
30 used in the other ~~state~~ jurisdiction may not be considered, and photostatic copies
31 of the records of the other jurisdiction's drivers licensing authority are sufficient

evidence of the refusal whether or not those copies are certified. The suspension must be for the same length of time as the revocation in section 39-20-04. If the refusal arose out of an arrest or stop of a person while operating a commercial motor vehicle, the period of suspension must be the same as the period of revocation provided in section 39-06.2-10.

6. Failure, as shown by the certificate of the court, to appear in court or post and forfeit bond after signing a promise to appear, in violation of section 39-06.1-04, ~~or~~ willful violation of a written promise to appear in court, in violation of section 39-07-08, or violation of equivalent ordinances or laws in another jurisdiction.

Upon resolution by the operator of the underlying cause for a suspension under this subsection, as shown by the certificate of the court, the director shall record the suspension separately on the driving record. This separate record is not available to the public.

7. An administrative decision in another ~~state~~ jurisdiction that the licensee's privilege to drive in that ~~state~~ jurisdiction is suspended or revoked because of a violation of that ~~state's~~ jurisdiction's law forbidding motor vehicle operation with an alcohol concentration of at least ten one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, or because of a violation of that ~~state's~~ jurisdiction's law forbidding the driving or being in actual physical control of a commercial motor vehicle while having an alcohol concentration of at least four one-hundredths of one percent by weight. The specific requirements for establishing the violation in the other ~~state~~ jurisdiction may not be considered and certified copies of the records of the other ~~state's~~ jurisdiction's drivers licensing authority are sufficient evidence of the violation. The suspension must be for the same duration as the suspension in section 39-20-04.1, if the violation does not involve a commercial motor vehicle. If the violation involves a commercial motor vehicle, the period of suspension must be the same as the period of suspension provided in section 39-06.2-10.

SECTION 6. AMENDMENT. Subsection 1 of section 39-06-33 of the North Dakota Century Code is amended and reenacted as follows:

- 1 1. In matters of driver's license suspension or revocation arising under sections
2 39-06-32, 39-06-40, 39-06-40.1, and 39-06.1-10, and chapters 39-16 and 39-16.1,
3 the director shall give notice of intention to suspend to the licensee by mailing the
4 notice to the licensee at the address of record in the department under section
5 39-06-20. Actual notice of the opportunity for a hearing under this section must be
6 deemed to have occurred seventy-two hours after the notice is mailed by regular
7 mail. The licensee has ten days after the date of mailing of the notice to request, in
8 writing, a hearing on the intended suspension or revocation.

9 **SECTION 7. AMENDMENT.** Subsection 1 of section 39-20-05 of the North Dakota
10 Century Code is amended and reenacted as follows:

- 11 1. Before issuing an order of suspension, revocation, or denial under section
12 39-20-04 or 39-20-04.1, the director shall afford that person an opportunity for a
13 hearing if the person mails a request for the hearing to the director within ten days
14 after the date of issuance of the temporary operator's permit. The hearing must be
15 held within ~~twenty-five~~ thirty days after the date of issuance of the temporary
16 operator's permit, ~~but the hearing officer may extend the hearing to within thirty~~
17 ~~days after the issuance of the temporary operator's permit to accommodate the~~
18 ~~efficient scheduling of hearings.~~ If the hearing date is extended beyond ~~twenty-five~~
19 thirty days from the issuance of the temporary operator's permit, the director shall
20 provide extended temporary operator's privileges to the date of the hearing. If no
21 hearing is requested within the time limits in this section, and no affidavit is
22 submitted within the time limits under subsection 2 of section 39-20-04, the
23 expiration of the temporary operator's permit serves as the director's official
24 notification to the person of the revocation, suspension, or denial of driving
25 privileges in this state.