

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1189
(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to create and enact a new section to chapter 26.1-40 of the North Dakota Century Code, relating to cancellation of a minor's driving privileges; to amend and reenact section 39-06-20, subsection 6 of section 39-06-32, subsection 1 of section 39-06-33, sections 39-06-35, 39-06.1-04, subsection 2 of section 39-06.1-13, section 39-16.1-01, subsection 2 of section 39-20-03.2, and subsection 1 of section 39-20-05 of the North Dakota Century Code, relating to notice of change of address for an operator's license or permit, suspension for failure to appear in court or post and forfeit bond, means to request a hearing, suspended licenses, reduction of point total, proof of financial responsibility, serving results of a blood test on a nonresident operator, and extension of a temporary operator's permit; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 26.1-40 of the North Dakota Century Code is created and enacted as follows:

Cancellation of minor's driving privileges - Effect. An insurer may not use or rely on the cancellation of a minor's driving privileges under section 39-06-01.1 as the sole reason to cancel, deny, or not renew the automobile insurance policy of the minor or a parent of the minor unless the points or offenses on the minor's public driving record, separate from a cancellation under section 39-06-01.1, would be a reason to cancel, deny, or not renew the policy.

SECTION 2. AMENDMENT. Section 39-06-20 of the North Dakota Century Code is amended and reenacted as follows:

39-06-20. Notice of change of address or name. Whenever a person after applying for or receiving an operator's license or permit moves from the address named in the application or in the license or permit issued to that person or when the name of a licensee is changed by marriage or otherwise, that person shall within ten days thereafter notify the director in writing or in person of that person's old and new addresses or of such former and new names and of the number of any license or permit then held by that person. A person may obtain a corrected license or permit by making application as provided for in section 39-06-18. In the event of a name change, a corrected license must be obtained. The department may change the address based on information received from any authorized address correction service of the United States postal service. The department may also develop procedures for receiving notification of address changes by telephone or electronic means.

SECTION 3. AMENDMENT. Subsection 6 of section 39-06-32 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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, if signing is required by law, in violation of section 39-06.1-04, 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.

SECTION 4. AMENDMENT. Subsection 1 of section 39-06-33 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 5. AMENDMENT. Section 39-06-35 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-06-35. Period of suspension. When the period of suspension imposed under this title ceases, the operator's license or driving privilege that has been suspended may not be returned or reinstated, and remains under suspension, until the operator pays to the director a reinstatement fee of fifty dollars, or twenty-five dollars if the suspension was the result of a suspension under subsection 4, 5, or 7 of section 39-06-03 or subsection 2 of section 39-06-32, or one hundred dollars if the suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if applicable, until compliance with subsection 3.1 of section 39-06.1-10. Upon payment of the reinstatement fee the license must be returned to the operator. A reinstatement fee is not required for a license to be returned to the operator if the return of the license is due to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter 39-06, 39-06.1, or 39-20.

SECTION 6. AMENDMENT. Section 39-06.1-04 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-04. Failure to appear, pay statutory fee, post bond - Procedure - Penalty. If a person fails to choose one of the methods of proceeding set forth in section 39-06.1-02 or 39-06.1-03, the person must be deemed to have admitted to commission of the violation charged, and the official having jurisdiction shall report such fact to the licensing authority within ten days after the date set for the hearing. Failure to appear at the time designated, after signing a promise to appear, if signing is required by law, or failure to appear without paying the statutory fee or posting and forfeiting bond is a class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

SECTION 7. AMENDMENT. Subsection 2 of section 39-06.1-13 of the North Dakota Century Code is amended and reenacted as follows:

2. The point total shown on a licensee's driving record must, during any twelve-month period, be reduced by three points when the licensee mails or delivers a certificate to the licensing authority indicating successful completion of instruction in a driver training course approved by the licensing authority. Successful completion of instruction must be certified to by the sponsoring agency or organization of the driver training course. The reduction in points authorized by this subsection must only be from a point total accumulated prior to completion of the necessary hours of driver training instruction, and may not exceed nine points during any three-year period commencing on the date of entry of the last points against the person's driving record. If on the date the licensing authority receives the certificate of completion of the driver training course from the licensee, that licensee's driving record contains twelve or more points or, as a minor, the licensee's driving record contains six points or more, the point reduction authorized by this subsection must be applied only after the period of suspension or cancellation required by the number of points then on the driver's record has been served.

SECTION 8. AMENDMENT. Section 39-16.1-01 of the North Dakota Century Code is amended and reenacted as follows:

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, apply with respect to any person

who has been convicted of or forfeited bail for certain offenses under motor vehicle laws, ~~whose operator's license has been revoked or suspended or issuance has been denied as an administrative sanction under chapter 39-20,~~ or who has failed to pay judgments upon claims for relief arising out of ownership, maintenance, or use of vehicles of a type subject to registration under the laws of this state.

SECTION 9. AMENDMENT. Subsection 2 of section 39-20-03.2 of the North Dakota Century Code is amended and reenacted as follows:

2. If the test was administered by saliva or urine sample or by drawing blood, the law enforcement officer, on reviewing the alcohol concentration analysis showing the person had 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, shall mail or issue to the person a notification of the test results, a temporary operator's permit extending nonresident operating privileges in this state for twenty-five days from the date of mailing or issuance or until earlier terminated by the decision of a hearing officer under section 39-20-05, and notice of the intent to revoke, suspend, or deny driving privileges in this state, together with the notice provided under section 39-06.1-07 of the procedures available under this chapter. The temporary operator's permit must be signed and dated by the officer.

SECTION 10. AMENDMENT. Subsection 1 of section 39-20-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Before issuing an order of suspension, revocation, or denial under section 39-20-04 or 39-20-04.1, the director shall afford that person an opportunity for a hearing if the person mails or communicates by other means authorized by the director a request for the hearing to the director within ten days after the date of issuance of the temporary operator's permit. The hearing must be held within thirty days after the date of issuance of the temporary operator's permit. ~~If the hearing date is extended beyond thirty days from the issuance of the temporary operator's permit, the director shall provide extended temporary operator's privileges to the date of the hearing.~~ If no hearing is requested within the time limits in this section, and no affidavit is submitted within the time limits under subsection 2 of section 39-20-04, the expiration of the temporary operator's permit serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state.

SECTION 11. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1189 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 94 Nays 2 Absent 2

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 2

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,
at _____ o'clock _____ M.

Secretary of State