

# MOTOR VEHICLES

## CHAPTER 327

### SENATE BILL NO. 2363

(Senators G. Nelson, Krauter)  
(Representatives Belter, Boucher)

## POLITICAL ACTIVITY EXPENSE REIMBURSEMENT PROHIBITED

AN ACT to amend and reenact section 39-01-05 of the North Dakota Century Code, relating to the prohibition on expense reimbursement by state officers and employees while engaged in political activity.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-01-05 of the North Dakota Century Code is amended and reenacted as follows:

**39-01-05. Expenses not to be collected by state officers or employees engaged in political activity.** ~~No A state officer or employee of this state, or of any department, board, bureau, commission, institution, industry, or other agency thereof, who uses or drives any privately owned motor vehicle while engaged in political activity, may not collect or receive, directly or indirectly, from this state, or any department, board, bureau, commission, institution, industry, or other agency thereof, any expense moneys whatsoever for the use or operation of any such the motor vehicle on any day on which such political work was done, and no such while engaged in the political activity. A state officer or public employee may not collect or receive any traveling expense reimbursement from this state, or any department, board, bureau, commission, institution, or other agency thereof for any time spent engaging in any political activity.~~

Approved March 14, 2001  
Filed March 14, 2001

## CHAPTER 328

### SENATE BILL NO. 2289

(Senators Freborg, Heitkamp, Solberg)  
(Representative Wrangham)

### MOBILITY-IMPAIRED PARKING SPACES

AN ACT to create and enact a new subsection to section 39-01-15 of the North Dakota Century Code, relating to parking spaces for mobility-impaired individuals; and to provide a penalty.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new subsection to section 39-01-15 of the North Dakota Century Code is created and enacted as follows:

An entity that violates the requirements of subsection 9 is guilty of an infraction if the entity does not comply with subsection 9 within sixty days after receiving official notification of the violation.

Approved April 9, 2001  
Filed April 10, 2001

## CHAPTER 329

### HOUSE BILL NO. 1185

(Transportation Committee)

(At the request of the Department of Transportation)

## MOTOR VEHICLE REGISTRATION AND TITLING

AN ACT to amend and reenact section 39-01-16, subdivision b of subsection 2 of section 39-04-18, and subdivision a of subsection 1 of section 39-05-05 of the North Dakota Century Code, relating to motor vehicle registration and titling.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-01-16 of the North Dakota Century Code is amended and reenacted as follows:

**39-01-16. Hearing on alleged violations.** Any person having information that a licensed dealer has violated any provisions of this title may file with the director an affidavit specifically setting forth such violation. Upon receipt of such affidavit, the director shall investigate the violation alleged in the affidavit. If, after investigation, the director determines that the dealer's license will be revoked or suspended, a notice of intent to revoke or suspend the license must be mailed to the dealer by ~~registered~~ certified mail. The notice must provide the dealer with an opportunity for a hearing prior to the effective date of the license revocation or suspension. A record of such hearings must be made by stenographic notes or use of an electronic recording device.

If after such hearing the director finds the violation charged in the affidavit has been proved by the evidence, an order must be served on the licensee revoking or suspending the dealer's license for a period of time to be determined by the director. Such action may be appealed to the district court by following the appeal procedure set forth in chapter 28-32, except that the order revoking or suspending the license is ineffective while the appeal is pending.

The director has the power to appoint an administrative hearing officer to conduct the hearing, administer oaths, and subpoena and examine witnesses. The administrative hearing officer shall submit the findings to the director for consideration and final decision.

Any witness called by the prosecution, except a peace officer while on duty, shall receive the same fees and mileage as a witness in a civil case in district court.

<sup>161</sup> **SECTION 2. AMENDMENT.** Subdivision b of subsection 2 of section 39-04-18 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>161</sup> Section 39-04-18 was also amended by section 1 of House Bill No. 1325, chapter 334.

- b. Motor vehicles owned by or in possession of Indian mission schools, 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, or by any entity located upon the international boundary line between the United States of America and Canada used and maintained as a memorial to commemorate the long-existing relationship of peace and good will between the people and the governments of the United States of America and Canada and to further international peace among the nations of the world; provided, however, that the vehicles must display license plates provided by the department at actual cost. Upon request, qualifying law enforcement motor vehicles must be issued a license plate under section 39-04-10.9.

Each motor vehicle loaned or furnished by a licensed North Dakota motor vehicle dealer to a school district in North Dakota to be used exclusively for instructing pupils in the driver education and training program conducted by the school district will be assigned an official license plate ~~bearing a decal with the words "driver education" appearing on it~~. The license plates must be used only on the motor vehicles furnished by dealers and used in the driver education program, and for no other purpose except for garaging and safekeeping of the motor vehicle.

~~No~~ A person may not use a driver education motor vehicle bearing official license plates ~~bearing a decal with the words "driver education" appearing on it as provided for in this subdivision~~ for any purpose other than driver education course instruction. ~~No~~ A person is not in violation of this subdivision if the person is required by the dealer or a school administrator to house or otherwise protect the vehicle at the person's home or other facility.

**SECTION 3. AMENDMENT.** Subdivision a of subsection 1 of section 39-05-05 of the North Dakota Century Code is amended and reenacted as follows:

- a. A full description of the vehicle, including the name of the manufacturer, either the engine, serial, or identification number, and any other distinguishing marks. The department may assign a vehicle identification number for a vehicle not otherwise assigned a number. The assigned number must be permanently affixed to the vehicle and the department may require the vehicle be inspected before issuing a certificate of title for the vehicle.

Approved March 20, 2001  
Filed March 20, 2001

## CHAPTER 330

### SENATE BILL NO. 2084

(Government and Veterans Affairs Committee)  
(At the request of the Public Employees Retirement System)

## HIGHWAY PATROLMEN'S RETIREMENT SERVICE AND BENEFITS

AN ACT to create and enact a new section to chapter 39-03.1 of the North Dakota Century Code, relating to the purchase of additional service credit under the highway patrolmen's retirement system; to amend and reenact subdivisions a and d of subsection 4 of section 39-03.1-11 and subsection 6 of section 39-03.1-11 of the North Dakota Century Code, relating to computation of benefits, postretirement adjustments, and beneficiaries under the highway patrolmen's retirement system; and to provide an effective date.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 39-03.1 of the North Dakota Century Code is created and enacted as follows:

#### **Purchase of additional service credit.**

1. The fund may accept rollovers from other qualified plans under rules adopted by the board for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirement of section 408 of the Internal Revenue Code [26 U.S.C. 408].
2. Except as provided in subsection 3 of section 39-03.1-10.1, a contributor is entitled to purchase additional credit under this section for active employment in the armed forces of the United States, for up to four years of credit, if the contributor is not presently receiving credit for that service. A contributor may not purchase credit under this subsection if the years claimed also qualify for retirement benefits from another retirement system.
3. A contributor may elect to purchase credit for an employer-approved leave of absence if the contributor is not presently receiving credit for that absence.
4. A participating contributor who is a vested permanent employee is entitled to purchase additional years of service credit for purposes of subsection 4 of section 39-03.1-11 and to enable the contributor to qualify for the normal retirement date defined by subdivision b of subsection 3 of section 39-03.1-11.
5. The contributor may purchase credit under this section by paying to the board an amount equal to the actuarial cost to the fund of providing the credit. The board shall adopt rules governing the purchase of additional credit under this section.

**SECTION 2. AMENDMENT.** Subdivisions a and d of subsection 4 of section 39-03.1-11 of the 1999 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- a. Normal retirement benefits for all contributors reaching the normal retirement date are payable monthly, and are:
  - (1) The first twenty-five years of credited service multiplied by three and ~~forty~~ sixty hundredths percent of final average salary.
  - (2) All years in excess of twenty-five years of credited service multiplied by one and three-fourths percent of final average salary.
  - (3) All contributors who retired before August 1, ~~1999~~ 2001, or their beneficiaries, are entitled to receive benefits equal to three and ~~forty~~ sixty hundredths percent of final average salary multiplied by the first twenty-five years of credited service, plus one and three-fourths percent of final average salary multiplied by credited service in excess of twenty-five years, with the increased benefits payable beginning August 1, ~~1999~~ 2001.
- d. Disability retirement benefits are ~~seventy percent of the contributor's final average salary, reduced by any workers' compensation benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.~~ payable monthly and are:
  - (1) Seventy percent of the contributor's final average salary, reduced by any workers' compensation benefits paid. The minimum monthly disability retirement benefit under this subsection is one hundred dollars.
  - (2) An individual or that person's beneficiary who, on July 31, 2001, is receiving a disability retirement benefit is entitled to receive an increase in benefits equal to six percent of the individual's present benefits, with the increase payable beginning August 1, 2001.

**SECTION 3. AMENDMENT.** Subsection 6 of section 39-03.1-11 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 6. If before retiring a contributor dies after completing ten years of eligible employment, the board shall pay the contributor's accumulated deductions to the contributor's ~~surviving spouse. However, if there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing, the board shall pay the contributor's account balance to the contributor's beneficiary or, if there is no named beneficiary, to the contributor's estate~~ designated beneficiary as provided in this subsection. If the contributor has designated an alternate beneficiary with the surviving spouse's written consent, the board shall pay the contributor's account balance to the named beneficiary. If the contributor has named more than one primary

beneficiary, the board shall pay the contributor's account balance to the named primary beneficiaries in the percentages designated by the contributor or, if the contributor has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the contributor, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If there are no remaining primary beneficiaries, the board shall pay the contributor's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the board shall pay the contributor's account balance to the contributor's estate. If the contributor has not designated an alternate beneficiary under this section or the surviving spouse is the beneficiary, the surviving spouse of the contributor may select one of the following optional forms of payment:

- a. A lump sum payment of the contributor's accumulated deductions as of the date of death.
- b. Payments for sixty months as calculated for the deceased contributor as if the contributor were age fifty-five at the date of death.
- c. Payment of a monthly retirement benefit equal to fifty percent of the deceased contributor's accrued normal retirement benefits until the spouse dies.

**SECTION 4.** A new subsection to the new section to chapter 39-03.1 of the North Dakota Century Code as created by section 1 of this Act is created and enacted as follows:

Pursuant to rules adopted by the board, the board may allow a member to purchase service credit with either pretax or aftertax moneys, at the board's discretion.

**SECTION 5. EFFECTIVE DATE.** Section 4 of this Act becomes effective on the date the board of trustees of the public employees retirement system receives a letter ruling from the internal revenue service that section 4 of this Act does not jeopardize the qualified status of the highway patrolmen's retirement system. The board shall notify the legislative council of the effective date of section 4 of this Act.

Approved March 21, 2001  
Filed March 21, 2001

## CHAPTER 331

### SENATE BILL NO. 2159

(Transportation Committee)

(At the request of the Department of Transportation)

## NUMBER PLATES AND DEALER LICENSING

AN ACT to amend and reenact sections 39-04-08.1, 39-04-19, subsection 2 of section 39-04-36, and section 39-22-12 of the North Dakota Century Code, relating to number plate use and fees and a motor vehicle dealer licensing exemption; to repeal section 39-04-09.1 of the North Dakota Century Code, relating to Lewis and Clark number plates; to provide for a legislative council study; to provide application of points and fees; to provide a temporary allocation; to provide an effective date; and to provide an expiration date.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-04-08.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**39-04-08.1. Assignment of motor vehicle number plates.** Motor vehicle number plates may not be assigned as a reward for any political activity, in recognition of any political affiliation or membership in any political party, or on the basis of political favoritism. However, an elected state office may be assigned a single or double digit number on a number plate as requested by that official. ~~Except as provided in sections 39-04-10 and 39-04-10.3, the department shall charge a nonrefundable fee of ten dollars if an applicant chooses a number plate other than the number plate randomly assigned.~~ The department of transportation may adopt rules governing the assignment of numbers on motor vehicle number plates in accordance with this section.

**SECTION 2. AMENDMENT.** Section 39-04-19 of the North Dakota Century Code is amended and reenacted as follows:

**39-04-19. Motor vehicle registration fees and mile tax.** Motor vehicles required to pay registration fees or a mile tax shall pay the following fees:

1. Nonresidents electing to pay mile tax in lieu of registration, when authorized to do so by the department, shall pay a fee of twenty dollars for a trip permit which is valid for a period of seventy-two hours. All fees collected under the provisions of this subsection must be credited to the highway construction fund.
2. Motor vehicles required to be registered in this state must be furnished license plates upon the payment of the following annual fees; however, if a motor vehicle, including a motorcycle or trailer, first becomes subject to registration other than at the beginning of the registration period, such fees must be prorated on a monthly basis. The minimum fee charged hereunder must be five dollars:
  - a. Passenger motor vehicles:



## YEARS REGISTERED

Gross Weights	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th, 8th, and 9th Years	10th, 11th, and 12th Years	13th and Subsequent Years
Less than 3,200	<del>\$50.00</del> <u>\$57.00</u>	<del>\$42.00</del> <u>\$49.00</u>	<del>\$34.00</del> <u>\$41.00</u>	<del>\$26.00</del> <u>\$33.00</u>
3,200 - 4,499	<del>70.00</del> <u>77.00</u>	<del>58.00</del> <u>65.00</u>	<del>46.00</del> <u>53.00</u>	<del>34.00</del> <u>41.00</u>
4,500 - 4,999	<del>88.00</del> <u>95.00</u>	<del>74.00</del> <u>78.00</u>	<del>56.00</del> <u>63.00</u>	<del>40.00</del> <u>47.00</u>
5,000 - 5,999	<del>119.00</del> <u>126.00</u>	<del>97.00</del> <u>104.00</u>	<del>75.00</del> <u>82.00</u>	<del>53.00</del> <u>60.00</u>
6,000 - 6,999	<del>152.00</del> <u>159.00</u>	<del>123.00</del> <u>130.00</u>	<del>94.00</del> <u>101.00</u>	<del>66.00</del> <u>73.00</u>
7,000 - 7,999	<del>185.00</del> <u>192.00</u>	<del>149.00</del> <u>156.00</u>	<del>114.00</del> <u>121.00</u>	<del>79.00</del> <u>86.00</u>
8,000 - 8,999	<del>218.00</del> <u>225.00</u>	<del>176.00</del> <u>183.00</u>	<del>134.00</del> <u>141.00</u>	<del>92.00</del> <u>99.00</u>
9,000 and over	<del>251.00</del> <u>258.00</u>	<del>202.00</del> <u>209.00</u>	<del>154.00</del> <u>161.00</u>	<del>105.00</del> <u>112.00</u>

A house car is subject to registration at the rates prescribed for other vehicles under this subdivision modified by using the weight applicable to a vehicle whose weight is forty percent of that of the house car, but not using a weight of less than four thousand pounds [1814.35 kilograms].

- b. Schoolbuses, buses for hire, buses owned and operated by religious, charitable, or nonprofit organizations and used exclusively for religious, charitable, or other public nonprofit purposes, 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:

## YEARS REGISTERED

Gross Weights	1st Through 6th Years	7th Through 9th Years	10th Through 12th Years	13th Through 19th Years	20th and Subsequent Years
Not over 4,000	<del>\$48.00</del> <u>\$55.00</u>	<del>\$35.00</del> <u>\$42.00</u>	<del>\$30.00</del> <u>\$37.00</u>	<del>\$27.00</del> <u>\$34.00</u>	<del>\$26.00</del> <u>\$33.00</u>
4,001 - 6,000	<del>53.00</del> <u>60.00</u>	<del>40.00</del> <u>47.00</u>	<del>34.00</del> <u>41.00</u>	<del>28.00</del> <u>35.00</u>	<del>27.00</del> <u>34.00</u>
6,001 - 8,000	<del>58.00</del> <u>65.00</u>	<del>45.00</del> <u>52.00</u>	<del>38.00</del> <u>45.00</u>	<del>29.00</del> <u>36.00</u>	<del>28.00</del> <u>35.00</u>
8,001 - 10,000	<del>63.00</del> <u>70.00</u>	<del>50.00</del> <u>57.00</u>	<del>42.00</del> <u>49.00</u>	<del>31.00</del> <u>38.00</u>	<del>30.00</del> <u>37.00</u>
10,001 - 12,000	<del>68.00</del> <u>75.00</u>	<del>55.00</del> <u>62.00</u>	<del>46.00</del> <u>53.00</u>	<del>33.00</del> <u>40.00</u>	<del>32.00</del> <u>39.00</u>
12,001 - 14,000	<del>73.00</del> <u>80.00</u>	<del>60.00</del> <u>67.00</u>	<del>50.00</del> <u>57.00</u>	<del>36.00</del> <u>43.00</u>	<del>35.00</del> <u>42.00</u>
14,001 - 16,000	<del>78.00</del> <u>85.00</u>	<del>65.00</del> <u>72.00</u>	<del>54.00</del> <u>61.00</u>	<del>39.00</del> <u>46.00</u>	<del>38.00</del> <u>45.00</u>
16,001 - 18,000	<del>83.00</del> <u>90.00</u>	<del>70.00</del> <u>77.00</u>	<del>58.00</del> <u>65.00</u>	<del>41.00</del> <u>48.00</u>	<del>40.00</del> <u>47.00</u>
18,001 - 20,000	<del>86.00</del> <u>93.00</u>	<del>73.00</del> <u>80.00</u>	<del>60.00</del> <u>67.00</u>	<del>42.00</del> <u>49.00</u>	<del>41.00</del> <u>48.00</u>

## YEARS REGISTERED

Gross Weights	1st, 2nd, 3rd, 4th, 5th, 6th, and 7th Years	8th, 9th, 10th, 11th, and 12th Years	13th and Subsequent Years
20,001 - 22,000	<del>\$116.00</del> <u>\$123.00</u>	<del>\$90.00</del> <u>\$97.00</u>	<del>\$77.00</del> <u>\$84.00</u>
22,001 - 26,000	<del>168.00</del> <u>175.00</u>	<del>138.00</del> <u>145.00</u>	<del>122.00</del> <u>129.00</u>
26,001 - 30,000	<del>229.00</del> <u>236.00</u>	<del>187.00</del> <u>194.00</u>	<del>165.00</del> <u>172.00</u>
30,001 - 34,000	<del>295.00</del> <u>302.00</u>	<del>240.00</del> <u>247.00</u>	<del>212.00</del> <u>219.00</u>
34,001 - 38,000	<del>356.00</del> <u>363.00</u>	<del>289.00</del> <u>296.00</u>	<del>255.00</del> <u>262.00</u>
38,001 - 42,000	<del>417.00</del> <u>424.00</u>	<del>338.00</del> <u>345.00</u>	<del>297.00</del> <u>304.00</u>
42,001 - 46,000	<del>478.00</del> <u>485.00</u>	<del>386.00</del> <u>393.00</u>	<del>340.00</del> <u>347.00</u>

46,001 - 50,000	<del>539.00</del> <u>546.00</u>	<del>435.00</del> <u>442.00</u>	<del>383.00</del> <u>390.00</u>
50,001 - 54,000	<del>609.00</del> <u>616.00</u>	<del>493.00</del> <u>500.00</u>	<del>434.00</del> <u>441.00</u>
54,001 - 58,000	<del>670.00</del> <u>677.00</u>	<del>542.00</del> <u>549.00</u>	<del>477.00</del> <u>484.00</u>
58,001 - 62,000	<del>731.00</del> <u>739.00</u>	<del>591.00</del> <u>598.00</u>	<del>520.00</del> <u>527.00</u>
62,001 - 66,000	<del>792.00</del> <u>799.00</u>	<del>639.00</del> <u>646.00</u>	<del>563.00</del> <u>570.00</u>
66,001 - 70,000	<del>853.00</del> <u>860.00</u>	<del>688.00</del> <u>695.00</u>	<del>605.00</del> <u>612.00</u>
70,001 - 74,000	<del>914.00</del> <u>921.00</u>	<del>737.00</del> <u>744.00</u>	<del>648.00</del> <u>655.00</u>
74,001 - 78,000	<del>975.00</del> <u>982.00</u>	<del>786.00</del> <u>793.00</u>	<del>691.00</del> <u>698.00</u>
78,001 - 82,000	<del>1,036.00</del> <u>1,043.00</u>	<del>835.00</del> <u>842.00</u>	<del>734.00</del> <u>741.00</u>
82,001 - 86,000	<del>1,159.00</del> <u>1,166.00</u>	<del>940.00</del> <u>947.00</u>	<del>821.00</del> <u>828.00</u>
86,001 - 90,000	<del>1,281.00</del> <u>1,288.00</u>	<del>1,044.00</del> <u>1,051.00</u>	<del>908.00</del> <u>915.00</u>
90,001 - 94,000	<del>1,403.00</del> <u>1,410.00</u>	<del>1,149.00</del> <u>1,156.00</u>	<del>995.00</del> <u>1,002.00</u>
94,001 - 98,000	<del>1,525.00</del> <u>1,532.00</u>	<del>1,254.00</del> <u>1,261.00</u>	<del>1,083.00</del> <u>1,090.00</u>
98,001 - 102,000	<del>1,647.00</del> <u>1,654.00</u>	<del>1,358.00</del> <u>1,365.00</u>	<del>1,170.00</del> <u>1,177.00</u>
102,001 - 105,500	<del>1,769.00</del> <u>1,776.00</u>	<del>1,463.00</del> <u>1,470.00</u>	<del>1,257.00</del> <u>1,264.00</u>

c. Motorcycles, fifteen dollars.

3. Motor vehicles acquired by disabled veterans under the provisions of Public Law 79-663 [38 U.S.C. 3901] are exempt from the payment of state sales or use tax and, if paid, such veterans are entitled to a refund. This exemption also applies to any passenger motor vehicle or pickup truck not exceeding ten thousand pounds [4535.92 kilograms] gross weight but shall apply to no more than two such motor vehicles owned by a disabled veteran at any one time.
4. Every trailer, semitrailer, and farm trailer required to be registered under this chapter must be furnished registration plates upon the payment of a twenty dollar annual fee. Every trailer, semitrailer, or farm trailer not required to be registered under this chapter must be furnished an identification plate upon the payment of a fee of five dollars. Upon the request of a person with a trailer or farm trailer to whom a registration or identification plate is provided under this subsection, the department shall provide a plate of the same size as provided for a motorcycle. The department shall provide notification of this option to the person before the replacement or issuance of the plate.
5. Trucks or combinations of trucks and trailers weighing more than twenty thousand but not more than one hundred five thousand five hundred pounds [more than 9071.84 but not more than 47854.00 kilograms] which are used as farm vehicles only, are entitled to registration under the following fee schedule and the provisions of this subsection. Farm vehicles are considered, for the purpose of this subsection, as trucks or combinations of trucks and trailers weighing more than twenty thousand but not more than one hundred five thousand five hundred pounds [more than 9071.84 but not more than 47854.00 kilograms] owned, or leased for at least one year by a bona fide resident farmer who uses the vehicles exclusively for transporting the farmer's own property or other property on a farm work exchange basis with other farmers between farms and the usual local trading places but not in connection with any commercial retail or wholesale business being conducted from those farms, nor otherwise for hire. In addition to the penalty provided in section 39-04-41, any person violating this subsection shall license for the entire license period the farm vehicle at the higher commercial vehicle rate in accordance with the weight carried by the farm vehicle at the time of the violation.

## YEARS REGISTERED

Gross Weights	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th and 8th Years	9th and 10th Years	11th and Subsequent Years
20,001 - 22,000	<del>\$88.00</del> \$95.00	<del>\$74.00</del> \$81.00	<del>\$60.00</del> \$67.00	<del>\$42.00</del> \$49.00
22,001 - 24,000	<del>93.00</del> 100.00	<del>78.00</del> 85.00	<del>63.00</del> 70.00	<del>44.00</del> 51.00
24,001 - 26,000	<del>101.00</del> 108.00	<del>84.00</del> 91.00	<del>67.00</del> 74.00	<del>46.00</del> 53.00
26,001 - 28,000	<del>111.00</del> 119.00	<del>92.00</del> 99.00	<del>73.00</del> 80.00	<del>50.00</del> 57.00
28,001 - 30,000	<del>121.00</del> 128.00	<del>100.00</del> 107.00	<del>79.00</del> 86.00	<del>54.00</del> 61.00
30,001 - 32,000	<del>136.00</del> 143.00	<del>113.00</del> 120.00	<del>90.00</del> 97.00	<del>63.00</del> 70.00
32,001 - 34,000	<del>146.00</del> 153.00	<del>121.00</del> 128.00	<del>96.00</del> 103.00	<del>67.00</del> 74.00
34,001 - 36,000	<del>156.00</del> 163.00	<del>129.00</del> 136.00	<del>102.00</del> 109.00	<del>71.00</del> 78.00
36,001 - 38,000	<del>166.00</del> 173.00	<del>137.00</del> 144.00	<del>108.00</del> 115.00	<del>75.00</del> 82.00
38,001 - 40,000	<del>176.00</del> 183.00	<del>145.00</del> 152.00	<del>114.00</del> 121.00	<del>79.00</del> 86.00
40,001 - 42,000	<del>186.00</del> 193.00	<del>153.00</del> 160.00	<del>120.00</del> 127.00	<del>83.00</del> 90.00
42,001 - 44,000	<del>196.00</del> 203.00	<del>161.00</del> 168.00	<del>126.00</del> 133.00	<del>87.00</del> 94.00
44,001 - 46,000	<del>206.00</del> 213.00	<del>169.00</del> 176.00	<del>132.00</del> 139.00	<del>91.00</del> 98.00
46,001 - 48,000	<del>216.00</del> 223.00	<del>177.00</del> 184.00	<del>138.00</del> 145.00	<del>95.00</del> 102.00
48,001 - 50,000	<del>226.00</del> 233.00	<del>185.00</del> 192.00	<del>144.00</del> 151.00	<del>99.00</del> 106.00
50,001 - 52,000	<del>246.00</del> 253.00	<del>203.00</del> 210.00	<del>160.00</del> 167.00	<del>113.00</del> 120.00
52,001 - 54,000	<del>256.00</del> 263.00	<del>211.00</del> 218.00	<del>166.00</del> 173.00	<del>117.00</del> 124.00
54,001 - 56,000	<del>266.00</del> 273.00	<del>219.00</del> 226.00	<del>172.00</del> 179.00	<del>121.00</del> 128.00
56,001 - 58,000	<del>276.00</del> 283.00	<del>227.00</del> 234.00	<del>178.00</del> 185.00	<del>125.00</del> 132.00
58,001 - 60,000	<del>286.00</del> 293.00	<del>235.00</del> 242.00	<del>184.00</del> 191.00	<del>129.00</del> 136.00
60,001 - 62,000	<del>296.00</del> 303.00	<del>243.00</del> 250.00	<del>190.00</del> 197.00	<del>133.00</del> 140.00
62,001 - 64,000	<del>306.00</del> 313.00	<del>251.00</del> 258.00	<del>196.00</del> 203.00	<del>137.00</del> 144.00
64,001 - 66,000	<del>316.00</del> 323.00	<del>259.00</del> 266.00	<del>202.00</del> 209.00	<del>141.00</del> 148.00
66,001 - 68,000	<del>326.00</del> 333.00	<del>267.00</del> 274.00	<del>208.00</del> 215.00	<del>145.00</del> 152.00
68,001 - 70,000	<del>336.00</del> 343.00	<del>275.00</del> 282.00	<del>214.00</del> 221.00	<del>149.00</del> 156.00
70,001 - 72,000	<del>346.00</del> 353.00	<del>283.00</del> 290.00	<del>220.00</del> 227.00	<del>153.00</del> 160.00
72,001 - 74,000	<del>356.00</del> 363.00	<del>291.00</del> 298.00	<del>226.00</del> 233.00	<del>157.00</del> 164.00
74,001 - 76,000	<del>366.00</del> 373.00	<del>299.00</del> 306.00	<del>232.00</del> 239.00	<del>161.00</del> 168.00
76,001 - 78,000	<del>376.00</del> 383.00	<del>307.00</del> 314.00	<del>238.00</del> 245.00	<del>165.00</del> 172.00
78,001 - 80,000	<del>386.00</del> 393.00	<del>315.00</del> 322.00	<del>244.00</del> 251.00	<del>169.00</del> 176.00
80,001 - 82,000	<del>396.00</del> 403.00	<del>323.00</del> 330.00	<del>250.00</del> 257.00	<del>173.00</del> 180.00
82,001 - 84,000	<del>406.00</del> 413.00	<del>345.00</del> 352.00	<del>293.00</del> 300.00	<del>249.00</del> 256.00
84,001 - 86,000	<del>426.00</del> 433.00	<del>362.00</del> 369.00	<del>307.00</del> 314.00	<del>261.00</del> 268.00
86,001 - 88,000	<del>446.00</del> 453.00	<del>379.00</del> 386.00	<del>321.00</del> 328.00	<del>273.00</del> 280.00
88,001 - 90,000	<del>466.00</del> 473.00	<del>396.00</del> 403.00	<del>335.00</del> 342.00	<del>285.00</del> 292.00
90,001 - 92,000	<del>486.00</del> 493.00	<del>413.00</del> 420.00	<del>349.00</del> 356.00	<del>297.00</del> 304.00
92,001 - 94,000	<del>506.00</del> 513.00	<del>430.00</del> 437.00	<del>363.00</del> 370.00	<del>309.00</del> 316.00
94,001 - 96,000	<del>526.00</del> 533.00	<del>447.00</del> 454.00	<del>377.00</del> 384.00	<del>321.00</del> 328.00
96,001 - 98,000	<del>546.00</del> 553.00	<del>464.00</del> 471.00	<del>391.00</del> 398.00	<del>333.00</del> 340.00
98,001 - 100,000	<del>566.00</del> 573.00	<del>481.00</del> 488.00	<del>405.00</del> 412.00	<del>345.00</del> 352.00
100,001 - 102,000	<del>586.00</del> 593.00	<del>498.00</del> 505.00	<del>419.00</del> 426.00	<del>357.00</del> 364.00
102,001 - 104,000	<del>606.00</del> 613.00	<del>515.00</del> 522.00	<del>433.00</del> 440.00	<del>369.00</del> 376.00
104,001 - 105,500	<del>626.00</del> 633.00	<del>532.00</del> 539.00	<del>447.00</del> 454.00	<del>381.00</del> 388.00

6. A motor vehicle registered in subsection 5 may be used for custom combining operations by displaying identification issued by the department and upon payment of a fee of twenty-five dollars.

<sup>162</sup> **SECTION 3. AMENDMENT.** Subsection 2 of section 39-04-36 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. Upon applying for the transfer of the registration and paying a five dollar fee, a person who transfers or assigns to another person the ownership of a registered vehicle may receive credit for the unused portion of the fees paid for the transferred vehicle. The transferor must use a number plate previously removed pursuant to subsection 1, regardless of whether there is any license fee credit remaining. If the number plate has become lost, stolen, or mutilated, the transferor may apply for duplicate plates. The department may establish procedures that permit the transferor to assign the credit to the transferee if the transferor is the spouse, a sibling, or a lineal ancestor or descendant of the transferee. One-twelfth of the annual fee must be credited for each month of the registration period remaining after the month in which the transfer is made. The credit may not extend beyond the original expiration of the registration. Except as provided in section 39-04-44, the credit must be applied to the registration fees for a replacement vehicle. The transferor shall apply for the transfer of registration within thirty days of the purchase of the replacement vehicle.

**SECTION 4. AMENDMENT.** Section 39-22-12 of the North Dakota Century Code is amended and reenacted as follows:

**39-22-12. Officers to administer chapter - House car dealer, manufacturer, and distributor exemption.** The director and any duly authorized representative ~~shall be~~ are responsible for the administration of ~~the provisions of~~ this chapter. This chapter does not apply to house car dealers, manufacturers, and distributors.

**SECTION 5. LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider studying during the 2001-02 interim highway construction and maintenance funding, including revenue sources and distribution formulas for the state, cities, and counties. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-eighth legislative assembly.

**SECTION 6. APPLICATION OF DEMERIT POINTS OR FEES.** The operator's license demerit points or fees for driving in violation of section 39-09-02, or equivalent ordinance, as provided by Senate Bill No. 2088, as passed by the fifty-seventh legislative assembly, do not apply to offenses committed before July 1, 2001.

**SECTION 7. TEMPORARY ALLOCATION.** Two dollars of each registration fee collected under subsection 2 or 5 of section 39-04-19 must be deposited in the state highway fund.

**SECTION 8. REPEAL.** Section 39-04-09.1 of the North Dakota Century Code is repealed.

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<sup>162</sup> Section 39-04-36 was also amended by section 1 of House Bill No. 1184, chapter 336.

**SECTION 9. EFFECTIVE DATE.** Section 2 of this Act is effective for registrations due after June 30, 2001. Section 1 of this Act becomes effective on January 1, 2003. Section 8 of this Act becomes effective on January 1, 2007.

**SECTION 10. EXPIRATION DATE.** Section 7 of this Act is effective through June 30, 2003, and after that date is ineffective.

Approved May 4, 2001

Filed May 8, 2001

## CHAPTER 332

### SENATE BILL NO. 2158

(Senator Flakoll)

(At the request of the Adjutant General)

### VETERANS' CEMETERY LICENSE PLATES

AN ACT to amend and reenact section 39-04-10.10 of the North Dakota Century Code, relating to interest earned from the sale of veterans' cemetery license plates.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-04-10.10 of the North Dakota Century Code is amended and reenacted as follows:

#### **39-04-10.10. North Dakota veterans' cemetery number plates.**

1. The director may issue distinctive number plates to individuals eligible for interment in the North Dakota veterans' cemetery. The director shall issue a number plate under this section upon receiving:
  - a. Payment of all other fees required under this chapter for registration of a motor vehicle;
  - b. Payment of an annual fee of five dollars for deposit in the highway tax distribution fund; and
  - c. Verification of payment of an annual surcharge of ten dollars paid to the adjutant general.
2. The department shall collect the fees and surcharge under this section. The department shall report to the legislative assembly on the funds collected under this section during each legislative session. The department shall pay the funds collected under subdivision c of subsection 1 to the adjutant general monthly, who then, within ten days of receipt of the funds, shall deposit five dollars of each surcharge in the veterans' cemetery trust fund and the remaining five dollars of each surcharge in the veterans' cemetery maintenance fund in the state treasury. The state investment board shall manage the veterans' cemetery trust fund. ~~The~~ At the request of the adjutant general, the interest in the veterans' cemetery trust fund, subject to legislative appropriation, may be expended must be deposited in the veterans' cemetery maintenance fund for the purpose of funding salaries and maintenance of the veterans' cemetery.
3. The veterans' cemetery trust fund may accept funds from private and federal sources.

Approved March 14, 2001  
Filed March 14, 2001

## CHAPTER 333

### HOUSE BILL NO. 1289

(Representatives Mueller, Disrud, Drovdal)  
(Senators Krauter, Lyson)

## FIREMEN'S ASSOCIATION VEHICLE PLATES

AN ACT to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to motor vehicle number plates bearing a logo identifying members of the North Dakota firemen's association.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 39-04 of the North Dakota Century Code is created and enacted as follows:

**Firemen's association plates.** The director, in cooperation with the North Dakota firemen's association, shall design a decorative decal that contains an insignia representing service in the pursuit of firefighting and which is to be placed on a distinctive number plate. On payment of all other fees required under this chapter for registration of the motor vehicle, and payment of an additional annual fee of fifteen dollars for deposit in the highway fund, the applicant is entitled to issuance of the decals and plates. However, the director may not issue the decal and plates to the owner of a passenger motor vehicle or a truck the gross weight of which equals or exceeds ten thousand pounds [4535.92 kilograms]. A registrant is eligible for distinctive number plates under this section if the registrant is a member of the North Dakota firemen's association. On request of the director, the North Dakota firemen's association shall certify those members of the North Dakota firemen's association eligible to receive the decals and plates. On termination of the registrant's eligibility, the registrant shall return the decals and plates to the director, who shall reissue for a fee of not more than five dollars another number plate to which that registrant is entitled under this chapter. The director and North Dakota firemen's association shall cooperate in establishing procedures to implement this section.

Approved April 5, 2001

Filed April 5, 2001

## CHAPTER 334

### HOUSE BILL NO. 1325

(Representatives Pietsch, Aarsvold, Byerly)  
(Senator Lyson)

## DISABLED VETERAN EXCISE TAX EXEMPTION

AN ACT to amend and reenact subdivision j of subsection 2 of section 39-04-18 and subsection 1 of section 57-40.3-04 of the North Dakota Century Code, relating to motor vehicle excise tax exemptions for motor vehicles acquired or leased by disabled veterans; and to provide an effective date.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>163</sup> **SECTION 1. AMENDMENT.** Subdivision j of subsection 2 of section 39-04-18 of the North Dakota Century Code is amended and reenacted as follows:

- j. Passenger motor vehicles, house cars, or pickup trucks not exceeding ten thousand pounds [4535.92 kilograms] gross weight owned and operated by a disabled veteran under the provisions of Public Law 79-663 [38 U.S.C. 4904 3901]; ~~provided, however, that such vehicles or who has a one hundred percent service-connected disability as determined by the department of veterans affairs who is entitled to display a distinctive license plate issued by the department upon the payment of a fee of five dollars.~~ This exemption applies to no more than two such motor vehicles owned by a disabled veteran at any one time.

<sup>164</sup> **SECTION 2. AMENDMENT.** Subsection 1 of section 57-40.3-04 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~Motor vehicles~~ Any motor vehicle acquired by, or leased and in the possession of, a resident disabled veterans veteran under the provisions of Pub. L. 79-663 [38 U.S.C. 4904 3901] and any passenger motor vehicle or pickup truck not exceeding ten thousand pounds [4535.92 kilograms] gross weight subsequently purchased or acquired by a disabled veteran; provided, that this exemption is allowed only with respect to one motor vehicle owned or leased by a disabled veteran at any one time or who has a one hundred percent service-connected disability as determined by the department of veterans affairs who registers the vehicle with a distinctive license plate issued by the department of transportation under subdivision j of subsection 2 of section 39-04-18. The owner or lessor of the motor vehicle who qualifies for the exemption under this subsection is entitled to a refund of taxes paid under this chapter on acquisition or leasing of the vehicle if

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<sup>163</sup> Section 39-04-18 was also amended by section 2 of House Bill No. 1185, chapter 329.

<sup>164</sup> Section 57-40.3-04 was amended by section 3 of House Bill No. 1201, chapter 543, and section 1 of Senate Bill No. 2209, chapter 544.



the distinctive license plate was acquired not more than sixty days after acquisition or leasing of the vehicle.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after June 30, 2001.

Approved March 16, 2001

Filed March 16, 2001

## CHAPTER 335

### HOUSE BILL NO. 1261

(Representatives Drovdal, Jensen, Kempenich)  
(Senator Lyson)

## MOTOR VEHICLE REGISTRATION

AN ACT to create and enact a new section to chapter 39-04 and a new subsection to section 57-40.3-07 of the North Dakota Century Code, relating to registration of a motor vehicle; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 39-04 of the North Dakota Century Code is created and enacted as follows:

**Failure to register upon gainful employment.** A person operating a motor vehicle in violation of subdivision c or e of subsection 2 of section 39-04-18 shall purchase an annual registration for that motor vehicle for a fee that is not discounted from the appropriate amount listed in a table in section 39-04-19. A law enforcement officer may issue a registration for that vehicle and shall remit the registration fee to the department of transportation. The department shall provide for evidence of registration to be issued by a law enforcement officer enforcing subdivision c or e of subsection 2 of section 39-04-18.

**SECTION 2.** A new subsection to section 57-40.3-07 of the North Dakota Century Code is created and enacted as follows:

For a vehicle leased and registered or licensed in another state by a nonresident individual who is stationed as a member of the armed services of the United States in this state, the vehicle is exempt from tax imposed under this chapter and registration in this state must be issued upon application and payment of appropriate registration fees.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 18, 2001  
Filed April 18, 2001

## CHAPTER 336

### HOUSE BILL NO. 1184

(Transportation Committee)

(At the request of the Department of Transportation)

### LICENSE FEE CREDITS

AN ACT to amend and reenact subsections 2 and 3 of section 39-04-36 of the North Dakota Century Code, relating to license fee credits; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>165</sup> **SECTION 1. AMENDMENT.** Subsections 2 and 3 of section 39-04-36 of the 1999 Supplement to the North Dakota Century Code are amended and reenacted as follows:

2. Upon applying for the transfer of the registration and paying a five dollar fee, a person who transfers or assigns to another person the ownership of a registered vehicle may receive credit for the unused portion of the fees paid for the transferred vehicle. The department may establish procedures that permit the transferor to assign the credit to the transferee if the transferor is the spouse, a sibling, or a lineal ancestor or descendant of the transferee. Any remaining credit on a vehicle owned by a leasing company must be credited to the lessee. One-twelfth of the annual fee must be credited for each month of the registration period remaining after the month in which the transfer is made. The credit may not extend beyond the original expiration of the registration. Except as provided in section 39-04-44, the credit must be applied to the registration fees for a replacement vehicle. The transferor shall apply for the transfer of registration within thirty days of the purchase of the replacement vehicle.
3. Except as otherwise permitted in this chapter, before the transferee of a registered vehicle may operate the vehicle on a highway, the transferee must apply for and obtain a new registration of the vehicle, as on an original registration. To provide the transferee adequate time to obtain a new registration, the director may provide for the issuance of a temporary registration certificate to permit the transferee to operate the vehicle for thirty days after the date of acquisition. The certificate must be printed on the reverse side of each vehicle registration card and must be available to the transferee from licensed vehicle dealers, law enforcement agencies, and motor vehicle branch offices. The vehicle may be operated for five days from date of purchase without a plate or certificate of ownership if dated evidence of ownership is carried in the vehicle. The evidence of ownership must be in a form as prescribed by the department.

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<sup>165</sup> Section 39-04-36 was also amended by section 3 of Senate Bill No. 2159, chapter 331.

**SECTION 2. EFFECTIVE DATE.** This Act becomes effective on April 1, 2002.

Approved April 18, 2001

Filed April 18, 2001

## CHAPTER 337

### SENATE BILL NO. 2273

(Senators Stenehjem, O'Connell, Schobinger)  
(Representatives Keiser, Mahoney, Weisz)

## MOTOR VEHICLE DEALER LICENSING AND TITLE TRANSFERS

AN ACT to create and enact thirteen new sections to chapter 39-22 of the North Dakota Century Code, relating to the licensing of motor vehicle dealers; to amend and reenact sections 39-05-17, 39-22-04, 39-22-05.1, 39-22-06, and 39-22-11 of the North Dakota Century Code, relating to vehicle title transfer requirements and motor vehicle dealer licensing; to repeal sections 39-22-02, 39-22-07, and 39-22-08 of the North Dakota Century Code, relating to motor vehicle dealer licensing; to provide a penalty; and to provide an effective date.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-05-17 of the North Dakota Century Code is amended and reenacted as follows:

**39-05-17. Transfer of title of vehicle - Endorsement required - Certificate of title delivered - New certificate obtained - Penalty.** The owner of a motor vehicle who sells or transfers title to a vehicle shall endorse an assignment and warranty of title upon the certificate of title for the vehicle, with a statement whether there are liens or encumbrances thereon, which statement must be verified by the owner. The owner shall include on the assignment and warranty of title the name of the purchaser and the selling price of the vehicle. The owner shall deliver the certificate of title to the purchaser if title passes to the purchaser. If the title does not pass to the purchaser under the terms of the contract for sale of the vehicle, the lienholder shall endorse thereon a statement that the lienholder holds the lien, the date thereof, and the name of the purchaser, and shall send the certificate of title to the department with an application of the purchaser for a new certificate of title showing the name of the owner, lienholder, and the date of the lien of the lienholder, which certificate of title when issued must be returned by the department to the lienholder, who shall retain the same in the lienholder's possession until the terms of the contract are complied with by the purchaser, and thereupon, after showing the lien has been paid and satisfied the lienholder shall deliver the certificate of title properly assigned to the purchaser. The purchaser or transferee shall present the endorsed and assigned certificate to the department, within thirty days after the receipt thereof, accompanied by a transfer fee of five dollars, and shall make an application for and obtain a new certificate of title for the vehicle. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked whenever the purchaser or transferee fails to present the endorsed and assigned certificate of title to the department for transfer and make application for a new certificate of title within the prescribed thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder, delivery is made to the purchaser. A violation of the provisions of this section ~~constitutes an infraction~~ is a class B misdemeanor.

**SECTION 2.** A new section to chapter 39-22 of the North Dakota Century Code is created and enacted as follows:

**Motor vehicle dealer license - Fees - Penalty.** It is unlawful for any person to engage in the business of buying, selling, or exchanging of motor vehicles without possessing a current motor vehicle dealer license. A person may not advertise or otherwise hold out to the public as engaging in the buying, selling, or exchanging of motor vehicles for resale without possession of a current new motor vehicle dealer license or used motor vehicle dealer license. The motor vehicle dealer license fee is one hundred dollars per year and with which must be issued one dealer plate. A nonrefundable fee of one hundred dollars must be charged for the initial inspection of an application for a dealer license and must accompany the initial application for a new or used motor vehicle dealer license. The applicant shall provide the business's federal employer identification number or, in the case of an application from an individual, social security number. Any person violating a provision of this section must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department must suspend the license of a motor vehicle dealer licensed under to this chapter if a third or subsequent violation of this section occurs within five years of the first violation.

**SECTION 3.** A new section to chapter 39-22 of the North Dakota Century Code is created and enacted as follows:

**Established place of business - Penalty.** A dealer license may not be issued until the applicant furnishes proof satisfactory to the director that the applicant has, does, and will continue to maintain in North Dakota an established place of business adjacent to the primary motor vehicle display lot maintained by the dealer. An established place of business means a permanent enclosed building of at least two hundred fifty square feet [23.22 square meters] either owned, rented, or leased at which a permanent business of bartering, trading, and selling of motor vehicles will be conducted and does not mean a residence, tents, temporary stands, or other temporary quarters. The established place of business and primary motor vehicle display lot must cover at least two thousand five hundred square feet [232.26 square meters] and be located on property zoned or otherwise approved for this purpose by the appropriate zoning authority. The established place of business must be adequately heated and lighted so as to be comfortable for customers and employees and be equipped with standard office equipment necessary for the conduct of the business. All records related to the business, including titles or other documents showing ownership of the vehicles, must be kept and maintained at the established place of business. An established place of business must have a telephone publicly listed in the name of the dealership, be open to the public during normal business hours, and have a sign identifying the business to the public as a motor vehicle dealership. The sign must be at least thirty-two square feet [2.97 square meters] in size, contain the name of the dealership in letters at least ten inches [25.4 centimeters] high, and be clearly visible from the street. A business sign approved by a motor vehicle manufacturer may be used in lieu of the sign requirements of this section. If the licensee desires to move from the established place of business occupied when the license was granted to a new location, the licensee shall first secure from the director permission to do so. The licensee must furnish proof satisfactory to the director that the premises to which the licensee proposes to move conform with the requirements of this section. Any person violating this section must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall suspend the license of a motor vehicle

dealer licensed under this chapter if a third or subsequent violation of this section occurs within five years of the first violation.

**SECTION 4.** A new section to chapter 39-22 of the North Dakota Century Code is created and enacted as follows:

**Application for new motor vehicle dealer license - Franchise required - Selling vehicles without a franchise - Penalty.** In the case of an application for a new motor vehicle dealer license, the applicant shall furnish proof satisfactory to the director that the applicant has a bona fide contract or franchise in effect with a manufacturer or distributor of the new motor vehicle or motor vehicles in which the dealer proposes to deal. A new motor vehicle dealer license entitles the holder to deal in both used motor vehicles and in those new motor vehicles only for which the dealer has a bona fide contract or franchise in effect with a manufacturer or distributor. A used motor vehicle dealer license entitles the holder to deal in used motor vehicles only.

New motor vehicle dealers who have been issued surrounding communities as a part of their dealer area of responsibility may be issued additional new motor vehicle dealer licenses if the manufacturer provides the department written approval of additional sites for display and sale of motor vehicles. Applicants for additional new car dealer licenses must meet all of the requirements of this chapter.

Whenever a motor vehicle dealer purchases or holds for sale a new motor vehicle for which the dealer does not have a bona fide contract or franchise in effect with a manufacturer or distributor, the new motor vehicle becomes, at the time of purchase or possession, subject to the registration provisions of chapter 39-04, the title registration provisions of chapter 39-05, and the motor vehicle excise tax provisions of chapter 57-40.3. Any person violating this section must be assessed a two hundred fifty dollar fee by the department for a first violation and a five hundred dollar fee by the department for a second violation within two years of the first violation. The department must suspend the license of a motor vehicle dealer licensed under to this chapter if a third or subsequent violation of this section occurs within five years of the first violation.

**SECTION 5.** A new section to chapter 39-22 of the North Dakota Century Code is created and enacted as follows:

**Additional dealer plates - In-transit plates - Demonstration plates - Fees - Use of dealer plates - Penalty.** Additional dealer number plates must be issued to the dealer upon payment of a fee of twenty-five dollars each. These number plates may be used on any vehicle owned by the dealership and used in the direct functions of demonstrating, buying, or selling vehicles. Dealer plates may not be used on service vehicles or vehicles used in other functions of the business, sold units in the possession of the purchaser, by family members not residing at the dealer's residence, or by other persons not directly involved in the operation of the dealership. The director may issue to any dealer an in-transit license plate for a fee of five dollars per plate and a demonstration plate for a fee of five dollars per plate. A dealer in-transit plate may be used on vehicles in lieu of dealer's plates while a motor vehicle is in transit from its place of manufacture, or any other place, to the dealer or in transit from the dealer, by a direct route, to another destination. A dealer demonstration plate may be used only on a vehicle which is owned by the dealership and being demonstrated to a customer. A dealer demonstration plate is valid for use only within a radius of one hundred miles [160.93 kilometers] of the dealer's established place of business. Any dealer plate, in-transit plate, or demonstration plate displayed on a vehicle must be displayed on the rear of the vehicle. Any

person violating this section must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall suspend the license of a motor vehicle dealer licensed under to this chapter if a third or subsequent violation of this section occurs within five years of the first violation.

**SECTION 6.** A new section to chapter 39-22 of the North Dakota Century Code is created and enacted as follows:

**Renewal of dealer license - Fees - Minimum sales requirement.** A dealer license issued under this chapter expires on December thirty-first of each year. A licensed dealer may apply for renewal of the dealer's license on forms prescribed by the department and payment of the dealer license and dealer plate fees required by this chapter. The department shall not renew the dealer license of any applicant who has made less than four retail motor vehicle sales during the previous year. The department may adopt administrative rules to limit the number of dealer plates available to an applicant based on the applicant's motor vehicle sales history.

**SECTION 7.** A new section to chapter 39-22 of the North Dakota Century Code is created and enacted as follows:

**Garage liability insurance requirement.** Before the issuance of a motor vehicle dealer license, the applicant must provide proof to the department of a continuous policy of garage liability insurance. The insurance company that issued the policy must notify the department of any cancellation, suspension, or revocation of the coverage. Any motor vehicle dealer who fails to maintain the insurance coverage required by this section shall return the dealer license and dealer number plates to the department on or before the effective date of the cancellation, suspension, or revocation. Failure to return the dealer license or dealer number plates results in automatic revocation by operation of law. The department may order the superintendent to take possession of any dealer license or dealer number plates not returned to the department as required in this section. The department shall reinstate the dealer license and dealer number plates only when proof of insurance coverage is received.

**SECTION 8.** A new section to chapter 39-22 of the North Dakota Century Code is created and enacted as follows:

**Display and sale of vehicles by out-of-state dealers - Offsite display and sale by instate dealers - Penalty.** An out-of-state motor vehicle dealer who possesses a current motor vehicle dealer license from the dealer's home jurisdiction may participate in bona fide North Dakota automobile shows and sales promotions after obtaining a permit from the department. The permit must be issued upon the payment of a fee of one hundred dollars and is valid for a period of time, not to exceed seven days, to be determined by the department. A motor vehicle dealer licensed under this chapter may participate in bona fide automobile shows and sales promotions in this state after obtaining a permit from the department. The permit must be issued upon the payment of a fee of twenty-five dollars and is valid for a period of time, not to exceed seven days, to be determined by the department. The department shall deny an application for a permit if it determines the applicant does not intend to participate in a bona fide show or promotion. Any person violating this section must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall suspend the license of a motor vehicle dealer licensed under this chapter if a third or subsequent violation of this section occurs within five years of the first violation.



**SECTION 9.** A new section to chapter 39-22 of the North Dakota Century Code is created and enacted as follows:

**Consignment vehicles - Penalty.** A motor vehicle dealer may sell a motor vehicle consigned to the dealer by a motor vehicle owner, except when the owner is a licensed motor vehicle dealer, under the terms of a consignment contract between the owner and the dealer. The consignment contract form must specify the terms of the agreement between the owner and the dealer, specify the location of the motor vehicle certificate of title, and must be approved by the department. Any person violating this section must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall revoke the license of a motor vehicle dealer licensed under this chapter if a third or subsequent violation of this section occurs within five years of the first violation.

**SECTION 10.** A new section to chapter 39-22 of the North Dakota Century Code is created and enacted as follows:

**Operators of motor vehicle display lots - Permit required - Fee - Records required - Penalty.** A person not licensed as a motor vehicle dealer may operate display lots on which the owner of a vehicle may display the vehicle for sale. The display lot must be located on property zoned or otherwise approved for this purpose by the appropriate zoning authority. The display lot operator must obtain an annual permit from the department to operate such a lot. The annual fee for the permit is fifty dollars. The display lot operator must provide the department with proof of a liability insurance policy with a minimum coverage of three hundred thousand dollars. The display lot must have a prominent sign identifying the business and the telephone number of the business owner. The sign must be at least thirty-two square feet [2.97 square meters] in size, contain the name of the display lot operator in letters at least ten inches [25.4 centimeters] high, and be clearly visible from the street. The display lot operator, before providing space to a vehicle owner, must verify that the person renting the space is the owner of the vehicle that will be displayed and keep records for at least one year thereafter verifying compliance with this requirement. A licensed motor vehicle dealer shall not be permitted to operate display lots except on property that is not otherwise a part of the licensed dealership. The department may inspect the records of the display lot operator related to any complaint made against the operator. Any person violating this section must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall suspend the permit if a third or subsequent violation of this section occurs within five years of the first violation.

**SECTION 11.** A new section to chapter 39-22 of the North Dakota Century Code is created and enacted as follows:

**Auto auction operators - License required - Records required - Penalty.** A person may not operate a wholesale or retail auto auction business without being licensed as a motor vehicle dealer. An auto auction operator must keep records related to the seller and purchaser of all vehicles sold through the operator's business for at least two years and make those records available to the director or an authorized representative of the director upon reasonable request. Any person violating this section must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall suspend the license of a motor vehicle dealer licensed under this chapter if a third or subsequent violation of this section occurs within five years of the first violation.

**SECTION 12.** A new section to chapter 39-22 of the North Dakota Century Code is created and enacted as follows:

**Factory store prohibited - Penalty.** A manufacturer, importer, or distributor of new motor vehicles, or a subsidiary thereof, may not own, operate, or control a motor vehicle dealership in this state. This section does not apply if:

1. The ownership and operation is for a temporary period not to exceed one year during the transition from one owner or operator to another; or
2. The dealership is being sold under a bona fide contract or purchase option to the operator of the dealership, or a contract exists under which the operator of the dealership can expect to acquire full ownership of or a controlling interest in the dealership, and after the transfer of ownership is completed the dealership will not be owned, operated, or controlled by the manufacturer, importer, or distributor, or a subsidiary thereof; or
3. If the department determines there is no prospective independent dealer available to own or operate the dealership in a manner consistent with the public interest and meeting the requirements of this chapter.

Any person violating this section is guilty of a class A misdemeanor.

**SECTION 13.** A new section to chapter 39-22 of the North Dakota Century Code is created and enacted as follows:

**Direct manufacturer sales prohibited - Penalty.** A manufacturer or franchiser may not offer to sell directly or sell indirectly, any new motor vehicle to a consumer in this state, except through a new motor vehicle dealer holding a franchise for the line make covering the new motor vehicle. This section does not apply to manufacturer or franchiser sales of new motor vehicles to the federal government, charitable organizations, or employees of the manufacturer or franchiser. Any person violating this section is guilty of a class A misdemeanor.

**SECTION 14.** A new section to chapter 39-22 of the North Dakota Century Code is created and enacted as follows:

**Brokering of motor vehicles prohibited - Penalty.** A person may not act as, offer to act as, or hold out to be a motor vehicle broker. As used in this section, a broker is a person who, for a fee, commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale or exchange of a motor vehicle, and who is not:

1. A dealer or a bona fide agent or employee of a dealer;
2. A representative or a bona fide agent or employee of a manufacturer;
3. The bona fide owner of the motor vehicle involved in the transaction; or
4. A bona fide auctioneer conducting an auction involving motor vehicles not owned by the auctioneer.

Any person violating this section is guilty of a class A misdemeanor.

**SECTION 15. AMENDMENT.** Section 39-22-04 of the North Dakota Century Code is amended and reenacted as follows:

**39-22-04. Grounds for denial, suspension, cancellation, or revocation of dealer's license.** The director may deny an application for a dealer's license or suspend, revoke, or cancel such a license after it has been granted for the following reasons:

1. For any material misstatement by an applicant in the application for the license.
2. For any willful failure to comply with the provisions of this chapter or with any rule or regulation promulgated by the director.
3. For knowingly permitting any ~~sales~~ person to sell or exchange, or offer or attempt to sell or exchange any motor vehicle except for the licensed motor vehicle dealer by whom the ~~sales~~ person is employed, ~~or to offer, transfer, or assign any sale or exchange that the sales person may have negotiated to any other dealer.~~
4. For having violated any law relating to the sale, distribution, or financing of motor vehicles.
5. For having ceased to have an established place of business as herein defined.
6. For having violated any state or federal law relating to alteration of odometers or vehicle identification number.

**SECTION 16. AMENDMENT.** Section 39-22-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-22-05.1. Disposition of fees.** Fees from registration of dealers and fees collected from dealers found in violation of this chapter must be deposited with the state treasurer ~~and~~, credited to the motor vehicle registration fund, and used exclusively for enforcement of this chapter.

**SECTION 17. AMENDMENT.** Section 39-22-06 of the North Dakota Century Code is amended and reenacted as follows:

**39-22-06. Motor vehicle lots - Location.** A licensed dealer as described in this chapter may establish ~~open~~ secondary motor vehicle lots as may be necessary in the conduct of the dealer's business in an area not further removed than ~~three~~ five miles [~~4.83~~ 8.05 kilometers] from the ~~city limits of the city in which the dealer operates a licensed place of business.~~ Such open dealer's established place of business. Secondary lots must be identified as a part of the licensed dealer's operation with a sign displaying the name and telephone number of the licensed dealer. The sign must be at least thirty-two square feet [2.97 square meters] in size, contain the name of the dealership in letters at least ten inches [25.4 centimeters] high, and be clearly visible from the street. Motor vehicle dealers may not display vehicles except on their primary and secondary lots or as otherwise permitted in this chapter. Any person violating this section must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall suspend the license of a motor vehicle dealer licensed under this

chapter if a third or subsequent violation of this section occurs within five years of the first violation.

**SECTION 18. AMENDMENT.** Section 39-22-11 of the North Dakota Century Code is amended and reenacted as follows:

**39-22-11. Examination of books and records.** The director or any duly authorized representative may inspect the pertinent books, letters, records, and contracts of any licensed motor vehicle dealer or any other person relating to any ~~specific~~ complaint made against such dealer or person and held to be in violation of any of the provisions of this title. In addition, any duly authorized representative of the department may inspect the records of any licensed dealer to verify that fees collected for the department have been properly remitted.

**SECTION 19. REPEAL.** Sections 39-22-02, 39-22-07, and 39-22-08 of the North Dakota Century Code are repealed.

**SECTION 20. EFFECTIVE DATE.** This Act is effective for motor vehicle dealer licensing years beginning after December 31, 2001.

Approved April 9, 2001  
Filed April 10, 2001

## CHAPTER 338

### HOUSE BILL NO. 1220

(Representatives Delmore, Hawken, Jensen, Mahoney, Pollert)  
(Senator Stenehjem)

### MINORS' RESTRICTED OPERATORS' LICENSES

AN ACT to amend and reenact subsection 2 of section 39-06-01.1 of the North Dakota Century Code, relating to restricted operators' licenses for minors; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 2 of section 39-06-01.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. If an individual has had that individual's license or permit canceled under subsection 1, the director shall deem that individual to have never have had any license or permit to operate a motor vehicle and may not issue any license or permit to drive other than an instruction permit or a restricted instruction permit after the completion of any period of suspension or revocation. After the issuance of an instruction permit or restricted instruction permit, the director may not issue any other license or permit to that individual until, while using the permit issued under this section, that individual:
  - a.
    - (1) Completes a course of classroom instruction and a course of behind-the-wheel instruction acceptable to the director; ~~or~~
    - (2) Completes an internet course through a licensee under chapter 39-25 and completes thirty hours of driving with that individual's parent or guardian in compliance with department rules designed for experience in various driving conditions; or
    - (3) Successfully completes a course at an approved commercial driver training school; and
  - b. Satisfies all other requirements that apply to that individual for that license or permit.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 24, 2001  
Filed April 24, 2001

## CHAPTER 339

### HOUSE BILL NO. 1245

(Representatives Eckre, Hawken, Pollert, Schmidt)  
(Senators Mutch, O'Connell)

### OPERATOR LICENSE NUMBERS

AN ACT to amend and reenact subsection 1 of section 39-06-14 of the North Dakota Century Code, relating to an operator's license number; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 1 of section 39-06-14 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The director, upon payment of a ten dollar fee, shall issue to every qualified applicant an operator's license as applied for in the form prescribed by the director. The license must bear a distinguishing number assigned to the licensee, a color photograph of 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 the licensee's usual signature. The director may not issue a distinguishing number that is, contains, can be converted to, or is an encrypted version of the applicant's social security number unless specifically requested by an applicant. If the licensee is under the age of eighteen, the photograph must be against a color border or background that is different from the color used for other licensees. If the licensee is at least the age of eighteen and is under the age of twenty-one, the photograph must be against a color border or background that is different from the color used for other licensees. If requested on the license application, the license issued by the director must include a statement making an anatomical gift under chapter 23-06.2. No license is valid until it has been signed by the licensee with the licensee's usual signature. The department shall develop a system to require each applicant for an operator's license or renewal of an operator's license to determine whether or not the applicant wishes to be a donor under chapter 23-06.2. For purposes of verification, an officer may require the licensee to write the licensee's signature in the presence of the officer. The director may adopt rules, pursuant to chapter 28-32, relating to the manner in which photographs are to be obtained and placed on operator's licenses. The photograph may be produced by digital imaging or other electronic means and is not a public record.

**SECTION 2. EFFECTIVE DATE - IMPLEMENTATION.** This Act becomes effective on January 1, 2002, and the director of the department of transportation shall implement this Act through regular license issuance, renewal, and replacement procedures.

Approved April 18, 2001  
Filed April 18, 2001

## CHAPTER 340

### HOUSE BILL NO. 1189

(Transportation Committee)

(At the request of the Department of Transportation)

## DRIVING PRIVILEGE CANCELLATION AND LICENSES

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.

Approved April 19, 2001  
Filed April 19, 2001

## CHAPTER 341

### SENATE BILL NO. 2088

(Transportation Committee)

(At the request of the Highway Patrol)

## TRAFFIC OFFENSES AND WEIGHT LIMITATIONS

AN ACT to amend and reenact sections 39-06.1-05, 39-06.1-06, 39-06.1-07, 39-06.1-09, and 39-06.1-10, subdivision g of subsection 2 of section 39-07-09, and subsections 1 and 2 of section 39-21-46 of the North Dakota Century Code and subsection 6 of section 39-12-05.3 of the North Dakota Century Code as amended by Senate Bill No. 2054, as approved by the fifty-seventh legislative assembly, relating to traffic offenses and weight limitations; to provide penalties; to provide an expiration date; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-05. Offenses excepted.** The procedures authorized under sections 39-06.1-02 and 39-06.1-03 may not be utilized by a person charged with one of the following offenses:

1. Driving or being in actual physical control of a vehicle in violation of section 39-08-01, or an equivalent ordinance.
2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or an equivalent ordinance.
3. A violation of chapter 12.1-16 resulting from the operation of a motor vehicle.
4. Leaving the scene of an accident in violation of section 39-08-04, 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances.
5. Driving while license or driving privilege is suspended or revoked in violation of section 39-06-42, or an equivalent ordinance.
6. Violating subdivision b or c of subsection 5 of section 39-24-09.
7. Operating a modified motor vehicle in violation of section 39-21-45.1.
8. Driving without liability insurance in violation of section 39-08-20.
9. ~~Failing to display a placard or flag, in violation of any rule implementing section 39-21-44, while transporting explosive or hazardous materials.~~
10. Operating an unsafe vehicle in violation of subdivision b of subsection 1 of section 39-21-46.

<sup>166</sup> **SECTION 2. AMENDMENT.** Section 39-06.1-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-06. Amount of statutory fees.** The fees required for a noncriminal disposition pursuant to either section 39-06.1-02 or 39-06.1-03 must be as follows:

1. For a nonmoving violation as defined in section 39-06.1-08, a fee of any amount not to exceed twenty dollars.
2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for:
  - a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, 39-10-42, 39-10-46, or 39-10-46.1, a fee of fifty dollars.
  - b. A violation of section 39-10-05 involving failure to yield to a pedestrian or subsection 1 of section 39-10-28, a fee of fifty dollars.
  - c. A violation of section 39-21-41.2, no fee may be imposed by the state, a city, or a county including a city or county operating under a home rule charter.
3. Except as provided in ~~subsection 8~~ subsections 7 and 11 of this section ~~39-06.1-06~~, for a violation of section 39-09-02, or an equivalent ordinance, a fee established as follows:

Miles per hour over lawful speed limit	Fee
1 - 5	\$ 5
6 - 10	\$ 5 plus \$1/each mph over 5 mph over limit
11 - 15	\$ 10 plus \$1/each mph over 10 mph over limit
16 - 20	\$ 15 plus \$2/each mph over 15 mph over limit
21 - 25	\$ 25 plus \$3/each mph over 20 mph over limit
26 - 35	\$ 40 plus \$3/each mph over 25 mph over limit
36 - 45	\$ 70 plus \$3/each mph over 35 mph over limit
46 +	\$100 plus \$5/each mph over 45 mph over limit

4. For a violation of section 39-09-01, or an ordinance defining careless driving, a fee of thirty dollars.
5. For a violation of section 39-09-01.1, or an ordinance defining care required in driving, a fee of not less than ten dollars nor more than thirty dollars.
6. ~~Repealed by S.L. 1985, ch. 430, § 4.~~
- ~~7.~~ For a violation of any traffic parking regulations, except a violation of subsection 10 of section 39-01-15, on any state charitable or penal

<sup>166</sup> Section 39-06.1-06 was also amended by section 1 of House Bill No. 1239, chapter 342.

institution property or on the state capitol grounds, a fee in the amount of five dollars.

- ~~8.~~ 7. ~~On~~ Except as provided in subsection 11, on a highway on which the speed limit is a speed higher than fifty-five miles [88.51 kilometers] an hour, for a violation of section 39-09-02, or an equivalent ordinance, a fee established as follows:

<u>Miles per hour over lawful speed limit</u>	<u>Fee</u>
1 - 5	\$ 10 plus \$1/each mph over limit
6 - 10	\$ 15 plus \$2/each mph over 5 mph over limit
11 - 15	\$ 25 plus \$3/each mph over 10 mph over limit
<u>16 - 20</u>	<u>\$ 40 plus \$3/each mph over 15 mph over limit</u>
<del>16</del> <u>21</u> - 25	<del>\$ 40</del> <u>55</u> plus \$3/each mph over <del>45</del> <u>20</u> mph over limit
26 - 35	\$ 70 plus \$3/each mph over 25 mph over limit
<del>36 +</del> <u>45</u>	<del>\$100</del> <u>120</u> plus \$5/each mph over 35 mph over limit
<u>46 +</u>	<u>\$170 plus \$5/each mph over 45 mph over limit</u>

- ~~9.~~ 8. For a violation of section 39-21-41.4, a fee not to exceed twenty dollars.
9. For a violation of section 39-21-44 or a rule adopted under that section, a fee of two hundred fifty dollars.
10. For a violation of subsection 2 of section 39-21-46, a fee established as follows:
- a. Driving more than ten hours since the last eight hours off duty, driving after fifteen hours on duty since the last eight hours off duty, driving after sixty hours on duty in seven days or seventy hours in eight days, no record of duty status or log book in possession, failing to retain previous seven-day record of duty status or log book, or operating a vehicle with four to six out-of-service defects, one hundred dollars;
  - b. False record of duty status or log book or operating a vehicle with seven to nine out-of-service defects, two hundred fifty dollars;
  - c. Operating a vehicle after driver placed out of service, operating a vehicle with ten or more out-of-service defects, or operating a vehicle that has been placed out of service prior to its repair, five hundred dollars; and
  - d. All other violations of motor carrier safety rules adopted under subsection 2 of section 39-21-46, fifty dollars.
11. On a highway on which the speed limit is posted in excess of seventy miles [112.65 kilometers] an hour, for a violation of section 39-09-02, or equivalent ordinance, a fee established as follows:

<u>Miles per hour over lawful speed limit</u>	<u>Fee</u>
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1 - 5	\$ 20
6 - 10	\$ 40
11 - 15	\$ 60
16 - 20	\$ 80
21 - 25	\$100
26 - 30	\$125
31 - 35	\$150
36 +	\$150 plus \$5/each mph over 35 mph over limit

**SECTION 3. AMENDMENT.** Section 39-06.1-07 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-07. Notification to offenders - Duties of licensing authority.** The licensing authority shall prepare notification forms and a temporary operator's permit as provided in section 39-20-03.1 or 39-20-03.2 to be delivered to persons charged along with the uniform traffic summons and complaint as provided in section 29-05-31. The notification forms must contain language, approved by the attorney general, informing persons charged with traffic violations, other than offenses listed in section 39-06.1-05, of the procedures available to them under sections 39-06.1-02 and 39-06.1-03 and informing persons who refuse a chemical test or onsite screening test under chapter 39-20 or who, on taking a chemical test, are found to be in violation of subdivision a of subsection 1 of section 39-08-01, of the procedures available under chapter 39-20. The notification must also contain a schedule of points to be charged against a person's driving record or other operator's license penalties as provided by law and a schedule of statutory fees and bond amounts as determined in accordance with sections 39-06.1-06 and 39-06.1-02. A notification form separate from the uniform traffic summons and complaint may be delivered to a person charged with a violation of subsection 2 of section 39-21-46.

**SECTION 4. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-09. Moving violation defined.** For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a violation of section 39-04-22; subsection 1 of section 39-04-37; section 39-04-55; 39-06-01; 39-06-14; 39-06-16; 39-09-04.1; 39-09-09; 39-12-04; 39-12-05; 39-12-06; 39-12-09; 39-24-02; or 39-24-09, except subdivisions b and c of subsection 5, or equivalent ordinances; or a violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except sections 39-21-44; and 39-21-45.1; and subdivision b of subsection 1 and subsection 2 of section 39-21-46, and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

**SECTION 5. AMENDMENT.** Section 39-06.1-10 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-10. Entries against driving record - Licensing authority duties - Hearings - Demerit schedule - Suspension.**

1. When a report of a conviction of a traffic offense, or admission or adjudication of a traffic violation is received by the licensing authority, the licensing authority shall proceed to enter the proper number of points on the licensee's driving record, unless the number points assigned to the violation are two or less. If the number points assigned to the violation are two or less, the violation and points may not be entered on the driving record but must be recorded separately, and the separate record shall not be available to the public. Points from

violations in which the assigned number points are two or less shall be considered a part of the driving record only for purposes of point reduction pursuant to section 39-06.1-13 and for purposes of license suspension. When the driving record shows that the licensee has an accumulated point total of twelve or more points, assigned on the basis of the schedule contained in subsection 3, the authority shall notify the licensee of its intention to suspend the operator's license according to the provisions of section 39-06-33. For the purposes of this chapter, the licensing authority may also receive and act on reports of traffic offense convictions forwarded by federal, military, and tribal courts in this state.

2. If the licensing authority confirms, after hearing or opportunity for hearing, that the licensee's driving record has an accumulated point total of twelve or more points, the licensing authority shall suspend the licensee's operator's license according to the following schedule:

Accumulated Point Total:	Period of Suspension:
a. Twelve	7 days
b. Thirteen and above	7 days for each point over eleven

Surrender and return of licenses suspended pursuant to this section must be governed by the provisions of section 39-06-37.

3. Points must be assigned and accumulated on the basis of the following schedule:

a. Noncriminal Violations Noncriminal Adjudication or Admission of:		Points Assigned:
(1)	Overtime and double parking in violation of city ordinances	0 points
(2)	Failure to display license plates	1 point
(3)	Permitting unauthorized minor to drive	2 points
(4)	Permitting unauthorized person to drive	2 points
(5)	Unlawful stopping, standing, or parking on open highway in violation of section 39-10-47	2 points
(6)	Unlawful parking in prohibited place	1 point

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|------|--|-----------|
| (7)  | Leaving motor vehicle improperly unattended on an open highway   | 1 point   |
| (8)  | Opening or leaving motor vehicle doors open when unsafe to do so   | 1 point   |
| (9)  | Except as provided in sections 39-21-44 and 39-21-45.1, knowingly driving with defective, nonexistent, or unlawful equipment in violation of <u>subdivision a of subsection 1 of section 39-21-46</u> , or equivalent ordinances | 2 points  |
| (10) | Careless driving in violation of section 39-09-01, or equivalent ordinance   | 6 points  |
| (11) | Violating or exceeding restrictions contained in a restricted certificate issued pursuant to section 39-06.1-03  | 4 points  |
| (12) | Racing or drag racing motor vehicles in violation of section 39-08-03.1, or equivalent ordinance   | 10 points |
| (13) | Exhibition driving in violation of section 39-08-03.1, or equivalent ordinance   | 3 points  |
| (14) | Failing to yield right of way in violation of section 39-10-20, 39-10-22 through 39-10-26, 39-10-28, 39-10-33.3, 39-10-44, or 39-10-72, or equivalent ordinances   | 2 points  |
| (15) | Disobeying an official traffic-control device in violation of section 39-10-04, 39-10-05, or 39-10-07, or equivalent ordinances  | 2 points  |
| (16) | Driving on wrong side of   | 2 points  |



	road in violation of section 39-10-08, 39-10-14, or 39-10-16, or equivalent ordinances	
(17)	Failing to dim headlights in violation of section 39-21-21, or equivalent ordinance	1 point
(18)	Failing to stop at railroad crossing in violation of section 39-10-41 or 39-10-42, or equivalent ordinances	3 points
(19)	Knowingly driving with defective brakes in violation of section 39-21-32 or 39-21-33, or equivalent ordinances	2 points
(20)	Disregarding the lawful commands of a police officer in violation of section 39-10-02, or equivalent ordinance	2 points
(21)	Overtaking where prohibited or in an unsafe manner in violation of section 39-10-11, 39-10-12, 39-10-13, or 39-10-15, or equivalent ordinances	2 points
(22)	Overtaking and passing a schoolbus in violation of section 39-10-46, or equivalent ordinance	6 points
(23)	Operating a motor vehicle without a license in violation of section 39-06-01, or equivalent ordinance	4 points
(24)	Improperly operating or unlawfully carrying passengers or packages on a motorcycle in violation of section 39-10.2-02, or equivalent ordinance	2 points
(25)	Improperly operating a motorcycle in laned traffic in violation of section	2 points

	39-10.2-03, or equivalent ordinance	
(26)	Clinging to other vehicles while riding a motorcycle in violation of section 39-10.2-04, or equivalent ordinance	4 points
(27)	Carrying a passenger on a motorcycle not equipped with passenger footrests in violation of section 39-10.2-05, or equivalent ordinance	2 points
(28)	Operating a motorcycle without protective headgear in violation of subsection 1 of section 39-10.2-06, or equivalent ordinance	2 points
(29)	Failing to use the care required in section 39-09-01.1, or equivalent ordinance	2 points
(30)	Except as provided in <del>paragraphs 34 and 34</del> <u>paragraph 33</u> of this subdivision, operating a motor vehicle in excess of speed limit in violation of section 39-09-02, or equivalent ordinance	
	46 - 20 mph over limit	3 points
	24 - 25 mph over limit	4 points
	26 - 35 mph over limit	6 points
	36 - 45 mph over limit	8 points
	46 + mph over limit	12 points
<del>(31)</del>	<del>Within city limits on a noncontrolled access highway, operating a motor vehicle in excess of the speed limit in violation of section 39-09-02, or equivalent ordinance</del>	
	6 - 10 mph over limit	<del>4 point</del> <u>0 points</u>
	11 - 15 mph over limit	<del>2 points</del> <u>1 point</u>
	16 - 20 mph over limit	3 points
	21 - 25 mph over limit	4 <u>5</u> points
	26 - 35 mph over limit	6 <u>9</u> points
	36 - 45 mph over limit	8 <u>12</u> points
	46 + mph over limit	<del>12</del> <u>15</u> points

~~(32)~~ (31) Driving in violation of section 39-08-18 2 points

~~(33)~~ (32) Driving in violation of section 39-08-09 6 points

~~(34)~~ (33) On a highway on which the speed limit is a speed higher than fifty-five miles [88.54] posted in excess of seventy miles [112.65] kilometers] an hour, operating a motor vehicle in excess of the speed limit in violation of section 39-09-02, or equivalent ordinance

Miles per hour over lawful speed limit	Points
<u>1 - 5</u>	<u>0</u>
<u>6 - 10</u>	<u>1</u>
<u>11 - 15</u>	<u>4</u> <u>2</u>
<u>16 - 25</u> <u>20</u>	<u>7</u> <u>5</u>
<u>21 - 25</u>	<u>7</u>
<u>26 - 35</u> <u>30</u>	<u>10</u>
<u>31 - 35</u>	<u>12</u>
<u>36 +</u>	<u>15</u>

~~(35)~~ (34) Failing to have a minor in a child restraint system or seatbelt in violation of section 39-21-41.2 1 point

(35) Failure or refusal to comply with rules of the superintendent of the highway patrol in violation of subsection 2 of section 39-21-46 0 points

(36) Violation of section 39-21-44 or any rule adopted under that section 2 points

b. Criminal Violations  
Conviction of:

Points Assigned:

(1) Reckless driving in violation of section 39-08-03, or equivalent ordinance 8 points

(2) Aggravated reckless driving in violation of section 39-08-03, or equivalent ordinance 12 points

(3) Leaving the scene of an accident involving 14 points

- property damage in violation of section 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances
- (4) Leaving the scene of an accident involving personal injury or death in violation of section 39-08-04, or equivalent ordinance 18 points
- (5) Violating restrictions in a restricted license issued under section 39-06-17 and relating to the use of eyeglasses or contact lenses while driving 3 points
- (6) Violating any restrictions other than those listed in paragraph 5, contained in a restricted license issued under section 39-06-17 or 39-06.1-11 4 points
- (7) Except as provided in paragraph 9, operating a motor vehicle without liability insurance, in violation of section 39-08-20 6 points
- (8) Knowingly driving a modified motor vehicle in violation of section 39-21-45.1, or equivalent ordinance 2 points
- (9) Operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the violation was discovered as the result of investigation of an accident in which the driver is the owner 14 points
- (10) ~~Knowingly failing to display a placard or flag, in violation of any rule implementing section 39-21-44, while transporting explosive or hazardous materials~~ 2 points

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|-----------------------------|---|-----------|
| <del>(11)</del>             | Except as provided in paragraph 9 of subdivision a, knowingly operating an unsafe vehicle in violation of <u>subdivision b of subsection 1 of section 39-21-46, or equivalent ordinance</u>   | 2 points  |
| <del>(12)</del> <u>(11)</u> | Fleeing in a motor vehicle from a peace officer in violation of section 39-10-71, or equivalent ordinance   | 24 points |
| <del>(13)</del> <u>(12)</u> | Except as provided in paragraph 9, operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the driving record shows that the licensee has within the eighteen months preceding the violation previously violated section 39-08-20 | 12 points |
- 3.1. a. If the director is informed by a court that a person has been convicted of violating section 39-08-01, or equivalent ordinance, the director, subject to the offender's opportunity for hearing under subsection 1, may not restore the operator's license to the offender until the offender furnishes to the director the written statement of the counselor or instructor of an appropriate licensed addiction treatment program that the offender does not require either an education or treatment program or that the offender has physically attended the prescribed program and has complied with the attendance rules. The director shall send notice to the offender informing the offender of the provisions of this subsection.
- b. If within the seven years preceding the most recent violation of section 39-08-01, or equivalent ordinance, the offender has previously violated section 39-08-01, or equivalent ordinance, at least three times, the director may restore driving privileges to the offender only after that person has completed addiction treatment through an appropriate licensed addiction treatment program and has had no alcohol-related or drug-related offense for two consecutive years after completion of treatment.
4. If judicial disposition of a traffic violation includes an order or recommendation of suspension or revocation of an operator's license, the suspension or revocation runs concurrently with any suspension ordered under this section. After a conviction of a person for violating section 39-08-01, the director shall, in suspending the person's operator's license, give credit for the time in which license suspension or revocation has been or is being imposed under chapter 39-20 in connection with the same offense.

5. A suspension must be deemed to have commenced twenty days after the order of suspension is delivered to the licensee at the licensee's address of record in the department. Constructive delivery under this section must be considered as occurring seventy-two hours after proper deposit in the mails.
6. Points assigned pursuant to this section must be recorded against an operator's driving record regardless of whether the operator has ever had an operator's license issued in this state, and the licensing authority shall maintain records on all violators regardless of whether they are licensed. Upon the assignment of twelve or more points, any unlicensed operator must be deemed to be driving under suspension if the operator has never had an operator's license or if the operator has failed to renew the operator's license.
7. 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 6. AMENDMENT.** Subdivision g of subsection 2 of section 39-07-09 of the North Dakota Century Code is amended and reenacted as follows:

- g. Operating an unsafe vehicle in violation of subdivision b of subsection 1 of section 39-21-46.

<sup>167</sup> **SECTION 7. AMENDMENT.** Subsection 6 of section 39-12-05.3 of the North Dakota Century Code as amended by Senate Bill No. 2054, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

6. The gross weight limitations in subsections 1 and 2 do not apply to movement of a self-propelled fertilizer spreader if the vehicle does not travel at speeds in excess of thirty miles [48.28 kilometers] per hour when loaded over one-half capacity and the gross weight does not exceed eighty thousand pounds [38287.39 kilograms]. The gross weight limitations in subsections 1 and 2 do not apply to movement of a self-propelled agricultural chemical applicator if the vehicle does not travel at speeds in excess of thirty miles [48.28 kilometers] per hour when loaded over one-half capacity and the gross weight does not exceed forty-five thousand pounds [20411.66 kilograms]. The highway

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<sup>167</sup> Section 39-12-05.3 was also amended by section 1 of Senate Bill No. 2054, chapter 353.

patrol shall issue a seasonal permit for the commercial movement of vehicles exempted by this subsection. The seasonal permit issued under this subsection or under subdivision d of subsection 1 of section 39-12-04 entitles an individual with the permit to operate a vehicle as allowed by either of these provisions. A seasonal permit issued under this subsection is subject to the requirements of subdivision d of subsection 1 of section 39-12-04; ~~except a vehicle exempted by this subsection which is an implement of husbandry is not required to have proof of financial responsibility and does not have to be operated by a commercial entity.~~

**SECTION 8. AMENDMENT.** Subsection 1 of section 39-21-46 of the North Dakota Century Code is amended and reenacted as follows:

1. a. It is unlawful for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which the actor knows ~~to be in such unsafe condition as to endanger any person, or which the actor knows~~ does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this chapter, or which the actor knows is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this chapter for which a fee or penalty for its violation is not otherwise provided.
- b. ~~Unless otherwise specifically provided in this chapter or in section 39-06.1-08 or 39-06.1-09, any~~ A person who; ~~in violation of this chapter, drives or moves, or any owner who causes or knowingly permits to be driven or moved upon a highway, any vehicle or combination of vehicles which that person knows is in such unsafe or improperly equipped condition as to endanger a person is guilty of an infraction.~~

**SECTION 9. AMENDMENT.** Subsection 2 of section 39-21-46 of the North Dakota Century Code is amended and reenacted as follows:

2. The superintendent of the state highway patrol shall, under chapter 28-32, adopt necessary rules concerning the safe operation of motor vehicles and when and how motor carrier audits or inspections will be conducted. The rules must duplicate or be consistent with current motor carrier safety regulations of the United States department of transportation. The superintendent of the state highway patrol may adopt the motor carrier safety regulations by reference, and any adoption must be construed to incorporate amendments as may be made from time to time. ~~Any proceeding under this section for issuing or modifying rules and determining compliance with rules of the superintendent of the state highway patrol must be conducted in accordance with chapter 28-32 and appeals may be taken as provided in chapter 28-32. A violation of rules adopted under this subsection is a noncriminal violation. A person who fails or refuses to comply with these rules must be assessed a fee in the amount set forth in section 3 of this Act for each violation.~~

**SECTION 10. EXPIRATION DATE.** Section 7 of this Act is effective through July 31, 2003, and after that date is ineffective.

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

Approved May 4, 2001

Filed May 8, 2001



## CHAPTER 342

### HOUSE BILL NO. 1239

(Representatives Carlisle, Kempenich, B. Thoreson, Weiler)  
(Senators Klein, Stenehjem)

### SCHOOL ZONE SPEED VIOLATION FEES

AN ACT to amend and reenact sections 39-06.1-06 and 39-09-02 of the North Dakota Century Code, relating to the fees for violating school zone speed limits.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>168</sup> **SECTION 1. AMENDMENT.** Section 39-06.1-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-06. Amount of statutory fees.** The fees required for a noncriminal disposition pursuant to either section 39-06.1-02 or 39-06.1-03 must be as follows:

1. For a nonmoving violation as defined in section 39-06.1-08, a fee of any amount not to exceed twenty dollars.
2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for:
  - a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, 39-10-42, 39-10-46, or 39-10-46.1, a fee of fifty dollars.
  - b. A violation of section 39-10-05 involving failure to yield to a pedestrian or subsection 1 of section 39-10-28, a fee of fifty dollars.
  - c. A violation of section 39-21-41.2, no fee may be imposed by the state, a city, or a county including a city or county operating under a home rule charter.
3. Except as provided in subsection 8 or 10 of section 39-06.1-06, for a violation of section 39-09-02, or an equivalent ordinance, a fee established as follows:

Miles per hour over lawful speed limit	Fee
1 - 5	\$ 5
6 - 10	\$ 5 plus \$1/each mph over 5 mph over limit
11 - 15	\$ 10 plus \$1/each mph over 10 mph over limit
16 - 20	\$ 15 plus \$2/each mph over 15 mph over limit
21 - 25	\$ 25 plus \$3/each mph over 20 mph over limit

<sup>168</sup> Section 39-06.1-06 was also amended by section 2 of Senate Bill No. 2088, chapter 341.

26 - 35	\$ 40 plus \$3/each mph over 25 mph over limit
36 - 45	\$ 70 plus \$3/each mph over 35 mph over limit
46 +	\$100 plus \$5/each mph over 45 mph over limit

4. For a violation of section 39-09-01, or an ordinance defining careless driving, a fee of thirty dollars.
5. For a violation of section 39-09-01.1, or an ordinance defining care required in driving, a fee of not less than ten dollars nor more than thirty dollars.
6. Repealed by S.L. 1985, ch. 430, § 4.
7. For a violation of any traffic parking regulations, except a violation of subsection 10 of section 39-01-15, on any state charitable or penal institution property or on the state capitol grounds, a fee in the amount of five dollars.
8. On a highway on which the speed limit is a speed higher than fifty-five miles [88.51 kilometers] an hour, for a violation of section 39-09-02, or an equivalent ordinance, a fee established as follows:

Miles per hour over lawful speed limit	Fee
1 - 5	\$ 10 plus \$1/each mph over limit
6 - 10	\$ 15 plus \$2/each mph over 5 mph over limit
11 - 15	\$ 25 plus \$3/each mph over 10 mph over limit
16 - 25	\$ 40 plus \$3/each mph over 15 mph over limit
26 - 35	\$ 70 plus \$3/each mph over 25 mph over limit
36 +	\$100 plus \$5/each mph over 35 mph over limit

9. For a violation of section 39-21-41.4, a fee not to exceed twenty dollars.
10. For a violation of a school zone speed limit under subdivision b of subsection 1 of section 39-09-02, of a highway construction zone speed limit under subsection 2 of section 39-09-02, or, notwithstanding subsection 2 of section 40-05-06 or section 40-05.1-06, of an ordinance in a city or home rule city for a violation of a speed limit dependent upon being on or near a school, fees for a noncriminal disposition are forty dollars for one through ten miles per hour over the posted speed; and forty dollars, plus one dollar for each additional mile per hour over ten miles per hour over the limit unless a greater fee would be applicable under this section. The fees in this subsection do not apply to a highway construction zone unless individuals engaged in construction are present at the time of the violation and the posted speed limit sign states "Minimum Fee \$40".

<sup>169</sup> **SECTION 2. AMENDMENT.** Section 39-09-02 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>169</sup> Section 39-09-02 was also amended by section 7 of Senate Bill No. 2012, chapter 37. Section 7 of Senate Bill No. 2012 was vetoed by the Governor, see chapter 586.

**39-09-02. Speed limitations.**

1. Subject to the provisions of section 39-09-01 and except in those instances where a lower speed is specified in this chapter, it presumably is lawful for the driver of a vehicle to drive the same at a speed not exceeding:
  - a. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24 meters] of a grade crossing of any steam, electric, or street railway when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last two hundred feet [60.96 meters] of the driver's approach to such crossing, the driver does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred feet [121.92 meters] in each direction from such crossing.
  - b. Twenty miles [32.19 kilometers] an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours, unless a lower speed is designated or posted by local authorities.
  - c. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24 meters] and in traversing an intersection of highways when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last fifty feet [15.24 meters] of the driver's approach to such intersection, the driver does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred feet [60.96 meters] from such intersection.
  - d. Twenty miles [32.19 kilometers] an hour when the driver's view of the highway ahead is obstructed within a distance of one hundred feet [30.48 meters].
  - e. Twenty-five miles [40.23 kilometers] an hour on any highway in a business district or in a residence district or in a public park, unless a different speed is designated and posted by local authorities.
  - f. Fifty-five miles [88.51 kilometers] an hour on gravel, dirt, or loose surface highways, and on paved two-lane highways if there is no speed limit posted or if within the time period of one-half hour after sunset to one-half hour before sunrise, unless otherwise permitted, restricted, or required by conditions.
  - g. Sixty-five miles [104.61 kilometers] an hour on paved two-lane highways if within the time period of one-half hour before sunrise to one-half hour after sunset and if posted for that speed, and on paved and divided multilane highways, unless otherwise permitted, restricted, or required by conditions.
  - h. Seventy miles [112.65 kilometers] an hour on access-controlled, paved and divided, multilane interstate highways, unless otherwise permitted, restricted, or required by conditions.

2. The director may designate and post special areas of state highways where lower speed limits apply. If there is a violation of a highway construction zone speed limit, where within that zone individuals engaged in construction were present at the time of the violation, then the fees required for a noncriminal disposition are forty dollars for one through ten miles per hour over the posted speed; and forty dollars, plus one dollar for each additional mile per hour over ten miles per hour over the limit. However, if a greater fee would be applicable under section ~~39-06.1-06~~, then that fee is required for the noncriminal disposition. The highway construction zone speed limit posted sign must state "Minimum Fee \$40".
3. Except as provided by law, it is unlawful for any person to drive a vehicle upon a highway at a speed that is unsafe or at a speed exceeding the speed limit prescribed by law or established pursuant to law.
4. In charging a violation of the provisions of this section, the complaint must specify the speed at which the defendant is alleged to have driven and the speed which this section prescribes is prima facie lawful at the time and place of the alleged offense.
5. ~~Repealed by S.L. 1975, ch. 346, § 3.~~

Approved March 20, 2001  
Filed March 20, 2001

## CHAPTER 343

### HOUSE BILL NO. 1191

(Representative Keiser)

### DIPLOMAT TRAFFIC OFFENSE DISPOSITION

AN ACT to create and enact a new section to chapter 39-06.1 of the North Dakota Century Code, relating to the disposition of traffic offenses for diplomats.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 39-06.1 of the North Dakota Century Code is created and enacted as follows:

#### **Diplomatic immunities and privileges.**

1. This section applies only to an individual who displays a driver's license issued by the United States department of state to a law enforcement officer or who otherwise claims immunities or privileges under chapter 6 of title 22 of the United States Code with respect to the individual's violation of any law or ordinance that relates to the operation of a motor vehicle.
2. If a driver who is subject to this section is stopped by a law enforcement officer who has probable cause to believe that the driver has committed a violation, the law enforcement officer shall record all relevant information from any driver's license or identification card, including a driver's license or identification card issued by the United States department of state; as soon as practicable contact the United States department of state office in order to verify the driver's status and immunity, if any; and forward the following to the bureau of diplomatic security office of foreign missions of the United States department of state:
  - a. A vehicle accident report, if the driver was involved in a vehicle accident;
  - b. A copy of the citation or other charging document if a citation or other charging document was issued to the driver; and
  - c. A written report of the incident if a citation or other charging document was not issued to the driver.
3. This section does not prohibit or limit the application of any law to a criminal or motor vehicle violation by an individual who has or claims immunities or privileges under title 22 of the United States Code.

Approved March 16, 2001  
Filed March 16, 2001

## CHAPTER 344

### HOUSE BILL NO. 1175

(Transportation Committee)

(At the request of the Department of Transportation)

## COMMERCIAL MOTOR VEHICLE OPERATION

AN ACT to amend and reenact section 39-06.2-01, subdivision b of subsection 2 of section 39-06.2-09, and section 39-06.2-10 of the North Dakota Century Code, relating to driving a commercial motor vehicle; and to provide a penalty.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-06.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.2-01. Uniform Commercial Driver's License Act.** The purpose of this chapter is to implement the federal Commercial Motor Vehicle Safety Act of 1986 [Title XII of Pub. L. 99-570, 49 U.S.C. 2701, repealed] and Motor Carrier Safety Improvement Act of 1999 [Pub. L. 106-159; 113 Stat. 1748; 49 U.S.C. 113 et seq.] and reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by:

1. Permitting commercial drivers to hold only one license;
2. Disqualifying commercial drivers who have committed certain serious traffic violations, or other specified offenses; and
3. Strengthening commercial driver's licensing and testing standards.

This chapter is a remedial law which should be liberally construed to promote the public health, safety, and welfare. To the extent that this chapter conflicts with general driver's licensing provisions, this chapter prevails. Where this chapter is silent, the general driver's licensing provisions apply.

<sup>170</sup> **SECTION 2. AMENDMENT.** Subdivision b of subsection 2 of section 39-06.2-09 of the North Dakota Century Code is amended and reenacted as follows:

- b. Endorsements and restrictions.
  - (1) "H" - authorizes the driver to drive a vehicle transporting hazardous materials.
  - (2) "T" - authorizes driving double and triple trailers.
  - (3) "P" - authorizes driving vehicles carrying passengers.

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<sup>170</sup> Section 39-06.2-09 was also amended by section 6 of Senate Bill No. 2012, chapter 37.

- (4) "N" - authorizes driving tank vehicles.
- (5) "X" - combinations of tank vehicles and hazardous material vehicles.
- (6) "S" - authorizes driving a school bus.

Other restrictions may be placed upon a commercial driver's license, as provided in section 39-06-17. The applicant shall pay a fee of three dollars for each endorsement.

**SECTION 3. AMENDMENT.** Section 39-06.2-10 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.2-10. Disqualification and cancellation - Penalty.**

1. Disqualification offenses. Any person is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:
  - a. Driving a commercial motor vehicle under the influence of alcohol or drugs;
  - b. Leaving the scene of an accident involving a commercial motor vehicle driven by the person in violation of section 39-08-04, 39-08-05, 39-08-07, or 39-08-09;
  - c. Using a commercial motor vehicle in the commission of any felony as defined in this chapter;
  - d. Refusal to submit to a test to determine the driver's alcohol concentration while driving a commercial motor vehicle; or
  - e. Driving or being in actual physical control of a commercial motor vehicle while the alcohol concentration of the person's blood, breath, or urine is four one-hundredths of one percent or more by weight.

If any of the above violations occurred while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three years.

2. A person is disqualified for life if convicted of two or more violations of any of the offenses specified in subsection 1, or any combination of those offenses, arising from two or more separate incidents. Only offenses committed after July 1, 1989, may be considered in applying this subsection.
3. The director may adopt rules under section 39-06.2-14, establishing guidelines, including conditions, under which a disqualification for life under subsection 2 may be reduced to a period of not less than ten years.
4. A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled

substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

5. A person is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations, or one hundred twenty days if convicted of three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.

6. Disqualification for railroad-highway grade crossing violation:

- a. A driver who is convicted of driving a commercial motor vehicle in violation of a federal, state, or local law or regulation pertaining to any one of the following six offenses at a railroad-highway grade crossing is disqualified for the period of time specified in subdivision b:

- (1) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

- (2) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

- (3) For drivers who are always required to stop, failing to stop before driving onto the crossing;

- (4) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

- (5) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing; and

- (6) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

- b. Duration of disqualification for a railroad-highway grade crossing violation:

- (1) First violation. A driver is disqualified for not less than sixty days if the driver is convicted of a first violation of a railroad-highway grade crossing violation.

- (2) Second violation. A driver is disqualified for not less than one hundred twenty days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in separate incidents.

- (3) Third or subsequent violation. A driver is disqualified for not less than one year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.

7. Notice and hearing. Prior to suspending, revoking, or disqualifying a driver under this section, the director must provide the driver with notice



of opportunity for hearing, in accordance with section 39-06-33, and the hearing requested must be held in accordance with section 39-06-33.

- ~~7.~~ 8. After suspending, revoking, or canceling a commercial driver's license, the director shall update the director's records to reflect that action within ten days. After suspending, revoking, or canceling a nonresident commercial driver's privileges, the director shall notify the licensing authority of the state that issued the commercial driver's license or commercial driver's instruction permit within ten days.

Approved March 20, 2001  
Filed March 20, 2001

## CHAPTER 345

### HOUSE BILL NO. 1199

(Representatives Devlin, DeKrey, Severson)  
(Senators Fischer, Klein, Stenehjem)

## COMMERCIAL DRIVER'S LICENSE EXCEPTIONS

AN ACT to create and enact a new subsection to section 39-06.2-06 of the North Dakota Century Code, relating to exceptions from a commercial driver's license requirements.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new subsection to section 39-06.2-06 of the North Dakota Century Code is created and enacted as follows:

The provisions of this chapter are waived as to an individual operating a vehicle at the request of and within a political subdivision during an emergency declared by that political subdivision for the removal of snow and ice.

Approved March 20, 2001  
Filed March 20, 2001

## CHAPTER 346

### HOUSE BILL NO. 1218

(Representatives Carlisle, R. Kelsch, Maragos)  
(Senators Lyson, Robinson, Stenehjem)

## DRIVING UNDER THE INFLUENCE

AN ACT to amend and reenact subsection 4 of section 39-08-01 of the North Dakota Century Code, relating to driving under the influence of intoxicating liquor or any other drug or substance; to provide an expiration date; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>171</sup> **SECTION 1. AMENDMENT.** Subsection 4 of section 39-08-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection. For purposes of this subsection, unless the context otherwise requires, "drug court program" means a district court-supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and chemical addiction treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug courts and the drug court program.
  - a. For a first offense, the sentence must include both a fine of at least two hundred fifty dollars and an order for addiction evaluation by an appropriate licensed addiction treatment program.
  - b. For a second offense within five years, the sentence must include at least five days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively, or thirty days' community service; a fine of at least five hundred dollars; and an order for addiction evaluation by an appropriate licensed addiction treatment program.
  - c. For a third offense within five years, the sentence must include at least sixty days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively; a fine of one thousand dollars; and an order for addiction evaluation by an appropriate licensed addiction treatment program.
  - d. For a fourth or subsequent offense within seven years, the sentence must include one hundred eighty days' imprisonment or placement in a minimum security facility, of which forty-eight hours

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<sup>171</sup> Section 39-08-01 was also amended by section 1 of Senate Bill No. 2406, chapter 347.

must be served consecutively ~~and~~<sub>1</sub>; a fine of one thousand dollars; and an order for addiction evaluation by an appropriate licensed treatment program.

- e. The execution or imposition of sentence under this section may not be suspended or deferred under subsection 3 or 4 of section 12.1-32-02 for an offense subject to subdivision a or b. If the offense is subject to subdivision c or d, the district court may suspend a sentence, except for ten days' imprisonment, under subsection 3 or 4 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation. If the defendant is found to be in need of alcohol and substance abuse treatment and rehabilitation, the district court may order the defendant placed under the supervision and management of the department of corrections and rehabilitation and is subject to the conditions of probation under section 12.1-32-07. The district court shall require the defendant to complete alcohol and substance abuse treatment and rehabilitation under the direction of the drug court program as a condition of probation in accordance with rules adopted by the supreme court. If the district court finds that a defendant has failed to undergo an evaluation or complete treatment or has violated any condition of probation, the district court shall revoke the defendant's probation and shall sentence the defendant in accordance with this subsection.
- f. For purposes of this section, conviction of an offense under a law or ordinance of another state which is equivalent to this section must be considered a prior offense if such offense was committed within the time limitations specified in this subsection.
- g. If the penalty mandated by this section includes imprisonment or placement upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo treatment at an appropriate licensed addiction treatment program and the time spent by the defendant in the treatment must be credited as a portion of a sentence of imprisonment or placement under this section.

**SECTION 2. EXPIRATION DATE.** This Act is effective through July 31, 2003, and after that date is ineffective.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 5, 2001  
Filed April 5, 2001

## CHAPTER 347

### SENATE BILL NO. 2406

(Senators Flakoll, Fischer)

(Representatives Berg, DeKrey, Koppelman, Mahoney)

## DRIVING UNDER THE INFLUENCE INMATE PLACEMENT

AN ACT to create and enact a new subsection to section 39-08-01 of the North Dakota Century Code, relating to inmate placement for driving while under the influence.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>172</sup> **SECTION 1.** A new subsection to section 39-08-01 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

As used in subdivision b of subsection 4 of this section, the term "imprisonment" includes house arrest. As a condition of house arrest, a defendant may not consume alcoholic beverages. The house arrest must include a program of electronic home detention in which the defendant is tested at least twice daily for the consumption of alcohol. The defendant shall defray all costs associated with the electronic home detention. This subsection does not apply to individuals committed to or under the supervision and management of the department of corrections and rehabilitation.

Approved March 29, 2001

Filed March 29, 2001

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<sup>172</sup> Section 39-08-01 was also amended by section 1 of House Bill No. 1218, chapter 346.

## CHAPTER 348

### HOUSE BILL NO. 1266

(Representatives Aarsvold, Nottestad, Wald)  
(Senators Lyson, Wardner)

## LEAVING SCENE OF ACCIDENT PENALTY

AN ACT to amend and reenact section 39-08-04 of the North Dakota Century Code, relating to leaving the scene of an accident; and to provide a penalty.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-08-04 of the North Dakota Century Code is amended and reenacted as follows:

#### **39-08-04. Accidents involving death or personal injuries - Penalty.**

1. The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop or return with the vehicle as close as possible to the scene of the accident and in every event shall remain at the scene of the accident until that driver has fulfilled the requirements of section 39-08-06. Every stop required by this section must be made without obstructing traffic more than is necessary.
2. Any person failing to comply with the requirements of this section under circumstances involving personal injury is guilty of a class A misdemeanor. Any person negligently failing to comply with the requirements of this section under circumstances involving serious personal injury ~~or death~~ is guilty of a class C felony. Any person negligently failing to comply with the requirements of this section under circumstances involving death is guilty of a class B felony.
3. The director shall revoke the license or permit to drive or nonresident operating privilege of a person convicted under this section.

Approved March 21, 2001  
Filed March 21, 2001

## CHAPTER 349

### HOUSE BILL NO. 1459

(Representatives DeKrey, Delmore, Weiler)  
(Senators D. Mathern, Wardner)

## MOTOR FUEL THEFT AND PENALTY

AN ACT to create and enact a new section to title 39 of the North Dakota Century Code, relating to theft of motor fuels; and to provide a penalty.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to title 39 of the North Dakota Century Code is created and enacted as follows:

#### **Nonpayment for motor fuels - Penalty.**

1. For a theft offense in violation of chapter 12.1-23 which involves a person who leaves the premises of an establishment at which motor fuel is offered for retail sale after motor fuel was dispensed into the fuel tank of a motor vehicle that that person drove away without having made due payment or authorized charge for the motor fuel dispensed, the court may:
  - a. Upon a person's second conviction, order the suspension of the person's driving privileges for up to three months; and
  - b. Upon a person's third or subsequent conviction, order the suspension of the person's driving privileges for up to six months.
2. As used in this section, "conviction" means a final conviction without regard to whether sentence was suspended or deferred or probation was granted after the conviction. Forfeiture of bail, bond, or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, is equivalent to conviction.

Approved April 5, 2001  
Filed April 5, 2001

## CHAPTER 350

### SENATE BILL NO. 2390

(Senators Tallackson, Holmberg, T. Mathern)  
(Representative Schmidt)

## EMERGENCY VEHICLE PASSING

AN ACT to amend and reenact section 39-10-26 of the North Dakota Century Code, relating to passing an authorized emergency vehicle.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-10-26 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

#### **39-10-26. Operation of vehicle on approach of authorized emergency vehicle.**

1. Upon the immediate approach of an authorized emergency vehicle displaying a visible flashing, revolving, or rotating blue, white, or red light, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.
2. ~~Whenever~~ If an authorized emergency vehicle is parked or stopped at the scene of an emergency and is displaying a flashing, revolving, or rotating blue, white, or red light, approaching traffic shall move to the right-hand edge or curb of the roadway and shall stop, but once having stopped, traffic may proceed past the scene at its own risk when the roadway is clear, except when otherwise directed by a police officer. If an authorized emergency vehicle is otherwise parked or stopped on a multilane highway outside the limits of a city unless the highway is part of the interstate system, and the authorized emergency vehicle is displaying a flashing, revolving, or rotating amber, blue, white, or red light, the driver of an approaching vehicle shall proceed with caution and yield the right of way by moving to a lane that is not adjacent to the authorized emergency vehicle if the move may be made with due regard to safety and traffic conditions or if not, the driver shall proceed with due caution, reduce the speed of the vehicle, and maintain a safe speed for the road conditions.
3. This section does not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

Approved March 21, 2001  
Filed March 21, 2001



## CHAPTER 351

### HOUSE BILL NO. 1452

(Representative Grosz)

(Senator Espegard)

## EXPERIMENTAL VEHICLES

AN ACT to create and enact a new chapter to title 39 of the North Dakota Century Code, relating to experimental vehicles; to provide a penalty; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new chapter to title 39 of the North Dakota Century Code is created and enacted as follows:

**Definitions.** As used in this chapter, unless the context otherwise requires:

1. "Chase vehicle" means a motor vehicle that accompanies an experimental vehicle while operating on a highway.
2. "Experimental vehicle" means a vehicle with an unladen weight of six thousand pounds [2721.55 kilograms] or less which may be equipped with any configuration of axles and wheels and which is primarily powered by some source other than a combustion engine, muscle, or an animal.

**Applicability.** An experimental vehicle is a motor vehicle under this title, except:

1. Chapter 39-22 does not apply to experimental vehicles.
2. Registration of an experimental vehicle is governed by this chapter.
3. The governing body of a political subdivision may regulate, restrict, or prohibit the use of an experimental vehicle operating within the political subdivision's corporate limits in areas under the jurisdiction of the political subdivision.

### **Experimental vehicle registration - Application - Issuance - Fees - Renewal.**

1. An individual may not operate an experimental vehicle unless the vehicle has been registered in accordance with this chapter.
2. The department shall design and furnish an application that must be used to register an experimental vehicle. The registration must state the name and address of every owner of the experimental vehicle and must be signed by at least one owner. A copy of the application is evidence of registration for the first thirty days after the date of application.
3. On receipt of an application and the appropriate fee, the department shall register the experimental vehicle and assign a registration number

and a certificate of registration. The certificate of registration must include information regarding name and address of the owner.

4. The fee for registration of an experimental vehicle is fifty dollars for each registration cycle of one year ending on March thirty-first. The department may prorate the initial registration fee. For a duplicate or replacement registration number or registration card that is lost, mutilated, or becomes illegible, the department may charge a fee of not more than five dollars.
5. To renew a registration, the owner of an experimental vehicle shall follow the procedure adopted by the department and pay the registration fee.
6. The department may adopt rules for the registration of experimental vehicles and the display of registration numbers.

**Exemption from fees.** Payment of fees is not required of an experimental vehicle owned and used by the United States, a state or any of its agencies, institutions, or political subdivisions; an experimental vehicle registered in a foreign country and temporarily used in this state; or an experimental vehicle validly licensed in another state and which has not been in this state for more than thirty consecutive days.

**Transfer or termination of experimental vehicle ownership - Change of address of owner.** Within fifteen days of a transfer of any ownership interest in an experimental vehicle, other than a security interest, the destruction or abandonment of any experimental vehicle, or a change of address of the owner as listed with the application for registration, written notice of the fact must be given by the last registered owner to the director in the form the director requires.

**Rules of operation.** A person may not operate an experimental vehicle on a highway without being accompanied by a chase vehicle. The chase vehicle must follow the experimental vehicle at a safe-driving distance.

**Equipment.** An experimental vehicle must be equipped with a horn, front and rear turn signal lamps, stop lamps, a balanced and coreactive dual-braking system, a windshield, a safety belt installed at each seating position, an exterior mirror mounted on the operator's side of the vehicle, a roll cage that encompasses the entire driver, fresh air intake vents or wheel openings, and either an exterior mirror mounted on the passenger's side of the vehicle or an interior rearview mirror.

**Penalty.** A violation of this chapter for which there is no penalty in this title is a class B misdemeanor.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 26, 2001  
Filed March 26, 2001

## CHAPTER 352

### SENATE BILL NO. 2089

(Transportation Committee)

(At the request of the Highway Patrol)

### VEHICLE SPECIAL PERMIT FEES

AN ACT to amend and reenact subsection 3 of section 39-12-02 of the North Dakota Century Code, relating to special permit fees for vehicles of excess size and weight.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 3 of section 39-12-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. An appropriate charge must be made for each permit and all funds collected hereunder by the highway patrol must be deposited in the state highway fund for use in the construction and maintenance of highways and operating expenses of the department of transportation. Official or publicly owned vehicles may not be required to pay charges for permits. The minimum fee for selected charges is as follows:
  - a. The fee for the ten percent weight exemption, harvest and wintertime, is fifty dollars per month.
  - b. The fee for a non-self-issuing interstate permit is ten dollars per trip.
  - c. The fee for special mobile equipment is twenty-five dollars per trip.
  - d. The fee for engineering is twenty-five dollars per trip.
  - e. The fee for ~~filing~~ faxing a permit is five dollars ~~per trip~~.
  - f. The fee for a single trip permit is twenty dollars per trip.

Approved March 14, 2001  
Filed March 14, 2001

## CHAPTER 353

### SENATE BILL NO. 2054

(Senators Solberg, O'Connell, Wanzek)  
(Representatives Aarsvold, Nelson, Rennerfeldt)

## HIGHWAY WEIGHT LIMITATIONS

AN ACT to amend and reenact section 39-12-05.3 of the North Dakota Century Code, relating to weight limitations on highways; to provide an expiration date; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>173</sup> **SECTION 1.** Section 39-12-05.3 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

#### **39-12-05.3. Weight limitations for vehicles on highways other than the interstate system.**

1. A person may not operate on a highway, ~~which~~ that is not part of the interstate system; any vehicle:
4. ~~With~~ with a single axle that carries a gross weight in excess of twenty thousand pounds [9071.85 kilograms] or a wheel load over ten thousand pounds [4535.92 kilograms]. A wheel may not carry a gross weight over five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width. Axles spaced forty inches [101.60 centimeters] apart or less are considered as one axle. On axles spaced over forty inches [101.60 centimeters] and under eight feet [2.44 meters] apart, the axle load may not exceed seventeen thousand pounds [7711.07 kilograms] per axle, with a maximum of forty-eight thousand pounds [21772.32 kilograms] gross weight on any grouping of three or more axles. The wheel load, in any instance, may not exceed one-half the allowable axle load. Spacing between axles is measured from axle center to axle center.
2. Subject to the limitations imposed by subsection 1 on tires, wheel, and axle loads, a person may not operate on a highway that is not part of the interstate system any vehicle the gross weight of which exceeds that determined by the formula of:

$$W = 500 \left( \frac{LN}{N-1} + 12N + 36 \right)$$

where W equals the maximum gross weight in pounds on any vehicle or combination of vehicles; L equals distance in feet between the two extreme axles of any vehicle or combination of vehicles; and N equals

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<sup>173</sup> Section 39-12-05.3 was also amended by section 7 of Senate Bill No. 2088, chapter 341.

the number of axles of any vehicle or combination of vehicles under consideration. The gross weight on state highways may not exceed one hundred five thousand five hundred pounds [47854.00 kilograms] unless otherwise posted and on all other highways the gross weight may not exceed eighty thousand pounds [36287.39 kilograms] unless designated by local authorities for highways under their jurisdiction for gross weights not to exceed one hundred five thousand five hundred pounds [47854.00 kilograms]. Local authorities are encouraged to assess all roads under their jurisdiction and designate the roads for the appropriate weight limits allowed under this subsection.

3. The gross weight limitations in subsections 1 and 2 do not apply to equipment the director and the state highway patrol approve for exemption. The exemption may not exceed one hundred five thousand five hundred pounds [47854.00 kilograms]. For every vehicle approved for exemption the highway patrol shall issue a nontransferable permit valid for one year. The highway patrol may charge an administrative fee for the permit.
4. The director, and local authorities, as to the highways under their respective jurisdictions, may issue permits authorizing a specific motor vehicle to exceed the weight limitations stated in subsections 1 and 2 by ten percent. The permits may not provide for a gross weight in excess of one hundred five thousand five hundred pounds [47854.00 kilograms]. The permits must provide only for the movement of agricultural products from the field of harvest to the point of initial storage site, and for the collection and transport of solid wastes, during the period from July fifteenth to December first, and for the general movement of products during the period from December first to March seventh. The appropriate jurisdictional authority shall establish an appropriate fee for the permits and direct how they shall be issued. The highway patrol shall issue the permits authorized by the director.
5. The director, and local authorities, as to highways under their respective jurisdictions, may issue permits authorizing all vehicles carrying potatoes or sugar beets to exceed weight limitations stated in subsections 1 and 2 by ten percent during the period from July fifteenth to December first. The permits may not provide for a gross weight in excess of one hundred five thousand five hundred pounds [47854.00 kilograms]. The appropriate jurisdictional authority shall establish an appropriate fee for the permits and direct how they shall be issued. The highway patrol shall issue the permits authorized by the director.
6. The gross weight limitations in subsections 1 and 2 do not apply to movement of a self-propelled fertilizer spreader if the vehicle does not travel at speeds in excess of thirty miles [48.28 kilometers] per hour when loaded over one-half capacity and the gross weight does not exceed eighty thousand pounds [38287.39 kilograms]. The gross weight limitations in subsections 1 and 2 do not apply to movement of a self-propelled agricultural chemical applicator if the vehicle does not travel at speeds in excess of thirty miles [48.28 kilometers] per hour when loaded over one-half capacity and the gross weight does not exceed forty-five thousand pounds [20411.66 kilograms]. The highway patrol shall issue a seasonal permit for the movement of vehicles exempted by this subsection. The seasonal permit issued under this subsection or under subdivision d of subsection 1 of section 39-12-04

entitles an individual with the permit to operate a vehicle as allowed by either of these provisions. A seasonal permit issued under this subsection is subject to the requirements of subdivision d of subsection 1 of section 39-12-04, except a vehicle exempted by this subsection which is an implement of husbandry is not required to have proof of financial responsibility and does not have to be operated by a commercial entity.

**SECTION 2. EXPIRATION DATE.** This Act is effective through July 31, 2003, and after that date is ineffective.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 23, 2001

Filed April 23, 2001

## CHAPTER 354

### SENATE BILL NO. 2087

(Transportation Committee)

(At the request of the Highway Patrol)

## HOURS OF SERVICE EXEMPTIONS

AN ACT to amend and reenact section 39-32-02 of the North Dakota Century Code, relating to intrastate exemptions from federal hours of service provisions for intrastate drivers.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-32-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**39-32-02. Intrastate exemptions from federal hours of service provisions.**

1. The following intrastate drivers are not subject to hours of service limitations:
  - a. A driver of an authorized emergency vehicle.
  - b. A driver who operates a motor vehicle that has a manufacturer's gross vehicle weight rating equal to or less than twenty-six thousand pounds [11793.40 kilograms] and that is not transporting hazardous materials.
  - c. A driver of a tow truck operating at the request of a law enforcement officer.
2. Except for a driver included in subsection 1, a motor carrier may not permit or require any intrastate driver to drive and an intrastate driver may not drive:
  - a. More than twelve hours following eight consecutive hours off duty.
  - b. For any period after having been on duty more than fifteen hours.
  - c. After having been on duty for seventy hours in any period of seven consecutive days.
3. ~~Following twenty-four consecutive hours off, an intrastate driver begins a new seven-consecutive-day period and on-duty time is reset to zero.~~
4. Hours of service limitations do not apply to an intrastate driver when transporting property or passengers during a declared emergency. The employer must declare and document that the emergency is necessary to assure the protection of public health and safety or to provide other essential assistance to the public. An employer shall maintain documentation for one year and shall make it available upon request of a law enforcement officer. Under this subsection, an emergency is the

result of any natural activities, including a tornado, windstorm, thunderstorm, snowstorm, ice storm, blizzard, drought, mudslide, flood, high water, earthquake, forest fire, explosion, blackout, or other occurrence, natural or manmade, which interrupts delivery of essential services, such as electricity, medical care, sewer, water, telecommunications transmissions, or essential supplies, such as food and fuels, or otherwise threatens human life or public welfare.

- ~~5.~~ 4. An intrastate driver is exempt from maintaining a record of duty status if:
- a. The driver operates within a one hundred fifty air-mile radius from the driver's normal work reporting location or from the official worksite of the vehicle;
  - b. At least eight consecutive hours off duty separate each twelve hours on duty;
  - c. The driver, except for a driver salesperson, returns to the work reporting location and is released from work within twelve consecutive hours; and
  - d. The motor carrier maintains and retains for a period of six months accurate time records showing the time the driver reports for duty and is released from duty each day.

Approved March 12, 2001  
Filed March 12, 2001



## CHAPTER 355

### HOUSE BILL NO. 1174

(Transportation Committee)

(At the request of the Department of Transportation)

### DRIVER AND VEHICLE RECORDS PRIVACY

AN ACT to amend and reenact sections 39-33-01, 39-33-02, and 39-33-05 of the North Dakota Century Code, relating to privacy of driver and motor vehicle records; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-33-01 of the North Dakota Century Code is amended and reenacted as follows:

**39-33-01. Definitions.** As used in this chapter:

1. "Department" means the department of transportation, or an authorized agent or contractor of the department responsible for compiling and maintaining motor vehicle records.
2. "Disclose" means to engage in any practice or conduct to make available and make known personal information contained in a motor vehicle record about a person to any other person by any means of communication.
3. "Express consent" means consent in writing, including consent conveyed electronically which bears an electronic signature as defined by law.
4. "Highly restricted personal information" means an individual's photograph or image, social security number, and medical or disability information.
5. "Individual record" means a motor vehicle record containing personal information about a designated person who is the subject of the record as identified in a request.
4. ~~6.~~ "Motor vehicle record" means any record that pertains to a motor vehicle operator's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by the department, or other state or local agency authorized to issue any of such forms of credentials. A record includes all books, papers, photographs, photostats, cards, films, tapes, recordings, electronic data, printouts, or other documentary materials regardless of physical form or characteristics.
5. ~~7.~~ "Person" does not include an agency of this state.
6. ~~8.~~ "Personal information" means information that identifies a person, including an individual's photograph or computerized image, social security number, driver identification number, name, address, telephone number, and medical or disability information. The term does not

include the five-digit zip code of an address, information on vehicular accidents, driving or equipment-related violations, and operator's license or registration status.

**SECTION 2. AMENDMENT.** Section 39-33-02 of the North Dakota Century Code is amended and reenacted as follows:

**39-33-02. Disclosure and use of personal information from department records prohibited.**

1. Notwithstanding any other provision of law, except as provided in sections 39-33-03, 39-33-04, and 39-33-05, the department may not knowingly disclose personal information about any person obtained by the department in connection with a motor vehicle record.
2. Notwithstanding any other provision of law, except as provided in subsections 1, 4, 6, and 9 of section 39-33-05, the department may not knowingly disclose highly restricted personal information about any person without the express consent of the person to whom such information pertains. This does not in any way affect the use of organ donation information on an individual's operator's license or affect the administration of organ donation initiatives in the state.

**SECTION 3. AMENDMENT.** Section 39-33-05 of the North Dakota Century Code is amended and reenacted as follows:

**39-33-05. Permitted disclosures.** The department may disclose personal information referred to in section 39-33-02 to any person, on proof of the identity of the person requesting a record and representation by the requester that the use of the personal information will be strictly limited to one or more of the following:

1. For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person acting on behalf of a government agency in carrying out its functions.
2. For use in connection with matters of motor vehicles or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts, and dealers; motor vehicle market research activities, including survey research; and removal of nonowner records from the original owner records of motor vehicle manufacturers.
3. For use in the normal course of business by a legitimate business or its agents, employees, or contractors:
  - a. To verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and
  - b. If the information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.
4. For use in connection with any proceeding in any court or government agency or before any self-regulatory body, including the service of

process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court.

5. For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.
6. For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating, or underwriting.
7. For use in providing notice to the owner or lienholder of a towed or impounded vehicle.
8. For use by any licensed private investigative agency or licensed security service for any purpose permitted under this section.
9. For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license which is required under the Commercial Motor Vehicle Safety Act of 1986 [title XII of Pub. L. 99-570].
10. For use in connection with the operation of private toll transportation facilities.
11. For any use specifically authorized by law that is related to the operation of a motor vehicle or public safety.
12. For any other use in response to requests for individual motor vehicle records if the department has ~~provided in a clear and conspicuous manner on forms for issuance or renewal of operator's permits, titles, registrations, or identification cards, notice that personal information collected by the department may be disclosed to any person, and the department has provided in a clear and conspicuous manner on the forms an opportunity to prohibit disclosure~~ obtained the express consent of the person to whom such personal information pertains.
13. For bulk distribution for surveys, marketing, or solicitations if the department ~~of transportation has implemented methods and procedures to ensure that:~~
  - a. ~~Individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit these uses; and~~
  - b. ~~The information disclosed may not be used for surveys, marketing, or solicitations directed at the individuals choosing to prohibit these uses~~ has obtained the express consent of the person to whom such personal information pertains.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

## CHAPTER 356

### SENATE BILL NO. 2027

(Legislative Council)  
(Budget Committee on Government Services)

## MOTOR VEHICLE BRANCH OFFICE PILOT PROJECT

AN ACT relating to a pilot project involving county treasurers administering motor vehicle registration programs; to provide for a legislative council study; and to provide an expiration date.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. MOTOR VEHICLE BRANCH OFFICE PILOT PROJECT.** By January 1, 2002, the director of the department of transportation shall establish a pilot project branch office at three sites within Bowman, Emmons, and McKenzie counties to administer motor vehicle registration programs similar to other branch offices established under North Dakota Century Code section 39-02-03. The department shall pay the training costs of the personnel necessary to implement the pilot project. The pilot project branch offices are in addition to other branch offices established by the director. The treasurer of the county in which a pilot project is located shall operate the office.

**SECTION 2. LEGISLATIVE COUNCIL STUDY - PILOT PROJECT.** The legislative council shall consider studying, during the 2003-04 interim, the efficiency and effectiveness of each motor vehicle branch office included in the motor vehicle branch office pilot project.

**SECTION 3. EXPIRATION DATE.** Section 1 of this Act is effective through June 30, 2005, and after that date is ineffective.

Approved April 9, 2001  
Filed April 10, 2001