

## HOUSE BILL NO. 1492

Introduced by

Representatives Gruchalla, L. Meier, Metcalf

Senators Horne, Mathern, Nelson

1 A BILL for an Act to create and enact a new section to chapter 39-06 and a new paragraph to  
2 subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating  
3 to restrictions on minors while driving; to amend and reenact subsection 1 of section 39-06-03,  
4 subdivision c of subsection 3 of section 39-06-14, sections 39-06-17 and 39-06-36,  
5 subsection 3 of section 39-06-42, section 39-06-43, subsection 1 of section 39-06.1-08, and  
6 subsection 3 of section 39-06.1-11 of the North Dakota Century Code, relating to minors driving  
7 motor vehicles; to repeal section 39-06-04 of the North Dakota Century Code, relating to  
8 instruction permits; to provide a penalty; and to provide an effective date.

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

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

12 **Instruction permits and intermediate driver's licenses.**

- 13 1. The director may issue an instruction permit to an individual under eighteen years  
14 of age only if the individual:
- 15 a. Is fourteen years of age or older;
  - 16 b. Has successfully passed a standard written test prescribed by the director;
  - 17 c. Has successfully passed a vision examination;
  - 18 d. Has the written approval of the individual's parent or legal guardian; and
  - 19 e. Has not had a seatbelt law violation, traffic offense or violation, or any offense  
20 involving the use of alcohol or other drug while operating a motor vehicle  
21 during the one hundred eighty-day period immediately preceding application.
- 22 2. An individual with an instruction permit may not:
- 23 a. Operate a motor vehicle unless accompanied by an individual who is at least  
24 twenty-one years of age and is licensed to operate a motor vehicle;

- b. Operate a motor vehicle between the hours of eleven p.m. and five a.m.; nor
- c. Operate a wireless or cellular communications device while operating a motor vehicle that is in motion unless the sole purpose of operating the device is to obtain emergency assistance, to prevent a crime about to be committed, or in the reasonable belief that a person's life or safety is in danger.

3. The director may issue an intermediate operator's license to an individual under eighteen years of age only if the individual:

- a. Is fifteen years and six months of age or older;
- b. Has successfully completed an examination of actual driving ability;
- c. Had an instruction permit pursuant to subsection 1 or its equivalent from another state for at least one year;
- d. Has not had any seatbelt law violation, traffic violation or offense, or any offense involving the use of alcohol or other drug while operating a motor vehicle during the one hundred eighty-day period immediately preceding application;
- e. Has presented certification by a parent or legal guardian that the individual has accumulated a minimum of forty hours of supervised, behind-the-wheel driving experience of which at least ten hours must consist of night driving; and
- f. Has either completed a course of classroom instruction and a course of behind-the-wheel instruction acceptable to the director or successfully completed a course at an approved commercial driver training school.

4. An individual with an intermediate operator's license may not:

- a. Operate a motor vehicle with more than one passenger under eighteen years of age unless the additional passenger is a sibling, including a step, half, and adopted sibling, of the driver and the motor vehicle is being operated for the sole purpose of going to or from school;
- b. Operate a motor vehicle between the hours of eleven p.m. and five a.m.; nor
- c. Operate a wireless or cellular communications device while operating a motor vehicle that is in motion unless the sole purpose of operating the device is to

- 1                   obtain emergency assistance, to prevent a crime about to be committed, or in  
2                   the reasonable belief that a person's life or safety is in danger.
- 3       5.   Except as otherwise provided by this section, the director may issue an  
4           unrestricted operator's license to an individual under eighteen years of age only if  
5           the individual:
- 6           a.   Is at least sixteen years of age;  
7           b.   Has maintained an intermediate operator's license for at least six months; and  
8           c.   Has not had a seatbelt law violation, traffic violation or offense, or any offense  
9               involving the use of alcohol or other drug while operating a motor vehicle  
10            during the one hundred eighty-day period immediately preceding application.
- 11       6.   Any individual who is between fourteen and sixteen years of age who resides on or  
12           is employed for compensation on a farm in this state may apply to the director for a  
13           farm license. A farm license entitles a licensee to operate a motor vehicle:
- 14           a.   While going to, from, or in connection with any farm job or other farm-related  
15               work; or  
16           b.   For other than farm-related purposes if the licensee is operating a motor  
17               vehicle other than between the hours of eleven p.m. and five a.m. and is  
18               accompanied by an individual who is at least twenty-one years of age who  
19               holds a valid driver's license.
- 20       7.   An individual with a farm license may not operate a wireless or cellular  
21           communications device while driving unless the sole purpose of operating the  
22           device is to obtain emergency assistance, to prevent a crime about to be  
23           committed, in the reasonable belief that a person's life or safety is in danger, or to  
24           communicate regarding any farm job, employment, or other farm-related work.
- 25       8.   The director may issue a farm license to an applicant who has had an instruction  
26           permit for two months and who:
- 27           a.   Resides on a farm or is employed for compensation on a farm that requires  
28               the operation of a motor vehicle by the applicant;  
29           b.   Has either completed a course of classroom instruction and a course of  
30               behind-the-wheel instruction acceptable to the director or successfully  
31               completed a course at an approved commercial driver training school;

- c. Submits a signed affidavit from a parent or legal guardian that certifies that the applicant lives or works on a farm;
  - d. Has not had a seatbelt law violation, traffic offenses or violations, or any offense involving the use of alcohol or other drug while operating a motor vehicle during the one hundred eighty-day period immediately preceding application; and
  - e. Has successfully completed an examination of actual driving ability.
9. For purposes of this subsection, "farm" has the same meaning as in section 57-02-08. Any licensee issued a farm license under this section who is under seventeen years of age and is convicted of two or more moving traffic violations under section 39-06.1-09 committed on separate occasions is not eligible to receive an unrestricted driver's license until the licensee reaches seventeen years of age.
10. An individual who violates this section is not eligible to apply for an intermediate or unrestricted operator's license for an additional ninety days from the time the individual would otherwise be eligible to obtain an intermediate or unrestricted license.
11. In addition to any points assigned for violation of the restrictions of the instruction permit, farm license, or intermediate license, the individual will be subject to cancellation of the permit or license according to section 39-06-01.1.

**SECTION 2. AMENDMENT.** Subsection 1 of section 39-06-03 of the North Dakota Century Code is amended and reenacted as follows:

1. To any person who is under the age of sixteen years, except ~~that the director may issue a restricted permit or license as hereinafter provided in sections 39-06-05 and 39-06-17 to any person who is less than sixteen years of age~~ section 1 of this Act or as is provided for motorcycles.

**SECTION 3. AMENDMENT.** Subdivision c of subsection 3 of section 39-06-14 of the North Dakota Century Code is amended and reenacted as follows:

- c. A driver with a class M license may operate any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding motorized bicycles,

tractors, and vehicles on which the operator or passengers, or both, ride within an enclosed cab. A class M vehicle may not be operated under a class A, B, C, or D license.

(1) The holder of a class A, B, C, or D license may receive a class M endorsement upon successful completion of an examination. The director may waive the skill portion of the examination if the applicant has successfully completed a motorcycle safety course approved by the director.

(2) An applicant sixteen years of age and older, who does not hold a current valid operator's license may be issued a class M learner's permit after successful completion of a written examination. The class M license will be issued after the applicant has successfully completed a driver's examination. The director may waive the skill portion of the examination if the applicant has successfully completed a motorcycle safety course approved by the director.

(3) Applicants fourteen or fifteen years of age may be issued a motorcycle learner's permit if the applicant is enrolled in or has completed an approved motorcycle safety course. Applicants for a motorcycle operator's license who are under sixteen years of age shall hold an initial learner's permit for at least two months before applying for a class M operator's license, shall have completed an approved motorcycle safety course, and shall hold a valid motorcycle learner's permit at the time of application. The director may waive the skill portion of the examination if the applicant has successfully completed a motorcycle safety course approved by the director. Any person under sixteen years of age who holds a permit or license is restricted to the operation of a motorcycle powered with an engine of two hundred fifty cubic centimeters, or less, displacement. Evidence that the applicant has satisfactorily completed a motorcycle safety course which meets the minimum requirements of the motorcycle safety foundation must accompany the application.

- (4) A holder of a motorcycle learner's permit may not operate a motorcycle when the use of headlights is required under section 39-21-01 and may not carry or transport a passenger.

**SECTION 4. AMENDMENT.** Section 39-06-17 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-17. Restricted licenses - Penalty for violation.**

1. The director, upon issuing an operator's license or a temporary restricted operator's license pursuant to section 39-06.1-11, has authority to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the director may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.
2. The director may either issue a special restricted license or may set forth such restrictions upon the usual license form. The director shall likewise restrict licenses pursuant to the requirements of section 39-16.1-09.
3. ~~A restricted operator's license or permit to operate the parent's or guardian's automobile, or an automobile which is equipped with dual controls and while accompanied by a qualified instructor, may be issued to any child, who is at least fourteen years of age, and otherwise qualified, upon the written recommendation of the parent or guardian. A child may operate an automobile that is not the parent's or guardian's to take the road test. No operator's license may be issued until the child, accompanied by the parent or guardian, appears in person and satisfies the director that:~~
  - a. ~~The child is at least fourteen years of age.~~
  - b. ~~The child is qualified to operate an automobile safely.~~
  - c. ~~It is necessary for the child to drive the parent's or guardian's automobile without being accompanied by an adult.~~
  - d. ~~The child has:~~
    - (1) ~~Completed a course of classroom instruction and a course of behind the wheel instruction acceptable to the director; or~~

(2) ~~Successfully completed a course at an approved commercial driver training school.~~

~~The parent or guardian at all times is responsible for any and all damages growing out of the negligent operation of a motor vehicle by any such child. The provisions of this subsection do not authorize the child to drive a commercial truck, motorbus, or taxicab except the holder of a class D license, fourteen or fifteen years of age, may drive a farm motor vehicle having a gross weight of fifty thousand pounds [22679.62 kilograms] when used to transport agricultural products, farm machinery, or farm supplies to or from a farm when so operated within one hundred fifty miles [241.40 kilometers] of the driver's farm.~~

4. The director may upon receiving satisfactory evidence of any violation of the restrictions of such license suspend or revoke the same but the licensee is entitled to a hearing as upon a suspension or revocation under this chapter.

~~5.~~ 4. It is a class B misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to that person ~~other than restrictions imposed under subsection 6.~~ If the restricted license was issued under section 39-06.1-11 and the underlying suspension was imposed for a violation of section 39-08-01 or equivalent ordinance, or is governed by chapter 39-20, punishment is as provided in subsection 2 of section 39-06-42 and upon receiving notice of the conviction the director shall revoke, without opportunity for hearing, the licensee's restricted license and shall extend the underlying suspension for a like period of not more than one year. The director may not issue a restricted license for the extended period of suspension imposed under this subsection. If the conviction referred to in this section is reversed by an appellate court, the director shall restore the person to the status held by the person prior to the conviction, including restoration of driving privileges if appropriate.

~~6. A restricted license issued under subsection 3 to a child at least fourteen years of age to operate a parent's or guardian's automobile authorizes the licenseholder to drive the type or class of motor vehicle specified on the restricted license only under the following conditions:~~

a. ~~A restricted licenseholder must be in possession of the license while operating the motor vehicle.~~

b. ~~An individual holding a restricted driver's license driving a motor vehicle may not carry more passengers than the vehicle manufacturer's suggested passenger capacity.~~

**SECTION 5. AMENDMENT.** Section 39-06-36 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-36. Restoration of revoked licenses.** Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked is not entitled to have such license or privilege renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of the revocation period such person may make application for a new license as provided by law, but the director may not then issue a new license unless and until the director is satisfied after investigation of the individual's driving records, driving habits, and driving ability of such person that it will be safe to grant the privilege of driving a motor vehicle on the public highways. A person whose license or privilege to drive a motor vehicle has been revoked must pay to the director a revocation reinstatement fee of fifty dollars, or one hundred dollars if the revocation was imposed for violation of subsection ~~5~~ 4 of section 39-06-17, section 39-06-31, 39-06-43, or 39-20-04, in addition to any license renewal fee, for issuance of a new license. Until the reinstatement fee is paid the license and privilege to drive a motor vehicle remain under revocation. A reinstatement fee is not required if a revoked license is reinstated due to the findings of a hearing, reexamination of hearing, or court or judicial review as provided under chapter 39-06, 39-06.1, or 39-20.

**SECTION 6. AMENDMENT.** Subsection 3 of section 39-06-42 of the North Dakota Century Code is amended and reenacted as follows:

3. In addition to any other punishment imposed, the court may order the number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the sheriff for the duration of the period of suspension or revocation. When a period of suspension has been extended under subsection ~~5~~ 4 of section 39-06-17, the court may order the number plates to be impounded in accordance with this subsection. The impounded number plates may be released, upon order of the court, to a bona fide purchaser of the



offender's motor vehicle, if that purchaser produces a new certificate of title to the motor vehicle issued by the director.

**SECTION 7. AMENDMENT.** Section 39-06-43 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-43. Extension of license suspension or revocation.**

1. The director upon receiving a record of the conviction of any person upon a charge of driving a vehicle while the license or driving privileges of the person were suspended shall extend the period of that suspension for an additional:

~~4.~~ a. Like period not to exceed ninety days if the operator's record for the three years preceding the most recent violation of section 39-06-42 or equivalent ordinance shows the person's operator's license or privilege has not been suspended, revoked, or denied for a prior violation of section 39-06-42 or equivalent ordinance;

~~2.~~ b. One hundred eighty days if the operator's record for the three years preceding the most recent violation of section 39-06-42 or equivalent ordinance shows the person's operator's license or privilege has been once suspended, revoked, or denied for a prior violation of section 39-06-42 or equivalent ordinance; or

~~3.~~ c. One year if the operator's record for the three-year period preceding the most recent violation of section 39-06-42 or equivalent ordinance shows the person's operator's license or privilege has been at least twice suspended, revoked, or denied for a prior violation of section 39-06-42 or equivalent ordinance.

2. If the original suspension was imposed for violation of section 39-08-01 or equivalent ordinance, the director shall extend the period of that suspension for at least six months. If the suspension of driving privileges resulted solely from failure to appear in court or to post and forfeit bond on noncriminal traffic violations, there may be no additional period of suspension. Suspension periods for failure to appear or to post and forfeit bond on noncriminal traffic violations may be for an indefinite duration. If the conviction was upon a charge of driving while a license or driving privileges were revoked, the director may not issue a new license for an

additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license. Upon a conviction of a person for violating a restricted license issued under section 39-06.1-11 and in which the underlying suspension was imposed for violating section 39-08-01 or equivalent ordinance or is governed by chapter 39-20, the director shall extend the period of the underlying suspension in accordance with subsection ~~5~~ 4 of section 39-06-17.

**SECTION 8. AMENDMENT.** Subsection 1 of section 39-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

1. A violation of section 39-04-11, ~~subsection 6 of section 39-06-17, and section 39-06-44, 39-06-45, 39-10-47, 39-10-49, 39-10-50, 39-10-51, 39-10-54.1, 39-21-08, 39-21-10, 39-21-11, or 39-21-14, or a violation of any municipal ordinance equivalent to the foregoing sections.~~

**SECTION 9.** A new paragraph to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

<u>Driving in violation</u>	<u>2 points</u>
<u>of the conditions of an</u>	
<u>instruction permit, farm</u>	
<u>license, or intermediate</u>	
<u>license under section 1</u>	
<u>of this Act</u>	

**SECTION 10. AMENDMENT.** Subsection 3 of section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

3. The director may not issue a temporary restricted license for a period of license revocation or suspension imposed under subsection ~~5~~ 4 of section 39-06-17 or section 39-06-31. A temporary restricted license may be issued for suspensions ordered under subsection 7 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct.

**SECTION 11. REPEAL.** Section 39-06-04 of the North Dakota Century Code is repealed.

- 1           **SECTION 12. EFFECTIVE DATE.** This Act is effective for permits and driver's licenses  
2 issued on or after January 1, 2010. This Act does not affect a valid permit or driver's license  
3 issued before the effective date of this Act.