

Sixty-second  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1103**

Introduced by

Transportation Committee

(At the request of the Department of Transportation)

1 A BILL for an Act to create and enact a new subsection to section 39-01-01 and section  
2 39-06-01.2 of the North Dakota Century Code, relating to definitions and anatomical gifting; and  
3 to amend and reenact subsection 1 of section 39-06-01, subsection 1 of section 39-06-01.1,  
4 subsection 1 of section 39-06-03.1, subsection 2 of section 39-06-07, section 39-06-07.2,  
5 subsection 1 of section 39-06-14, subsection 4 of section 39-06-19, sections 39-06-24,  
6 39-06-35, 39-06-36, and 39-06-40, subsection 3.1 of section 39-06.1-10, subsection 2 of  
7 section 39-06.2-10, sections 39-06.2-10.3 and 39-10.2-06, subsection 2 of section 39-16.1-07,  
8 subsection 2 of section 39-27-05, and subsections 2 and 5 of section 39-27-06 of the North  
9 Dakota Century Code, relating to nondriver photo identification, operator's licenses, and  
10 motorcycle safety and body requirements.

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

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

14 "Licensed medical care provider" means doctor of medicine, doctor of osteopathy,  
15 doctor of chiropractic, optometrist, psychologist, nurse practitioner, or physician  
16 assistant who is licensed, certified, or registered in accordance with laws and  
17 regulations in this or another state.

18 **SECTION 2. AMENDMENT.** Subsection 1 of section 39-06-01 of the North Dakota Century  
19 Code is amended and reenacted as follows:

- 20 1. A person, unless expressly exempted in this section, may not drive any motor vehicle  
21 on a highway or on public or private areas to which the public has a right of access for  
22 vehicular use in this state unless the person has a valid license as an operator under  
23 the provisions of this chapter or a temporary operator's permit issued under chapter  
24 39-20. A person may not receive an operator's license unless and until that person

surrenders to the director all operator's licenses and permits issued to the person by any jurisdiction. When a license issued by another jurisdiction is surrendered, the director shall notify the issuing jurisdiction of its surrender. A person may not have more than one valid operator's license at any time.

**SECTION 3. AMENDMENT.** Subsection 1 of section 39-06-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The director shall cancel the permit or license to operate a motor vehicle of an individual who has committed acts resulting in an accumulated point total in excess of five points as provided for a violation under section 39-06.1-10 or has committed an alcohol-related offense or a drug-related offense while operating a motor vehicle, if:
  - a. The acts or offenses were committed while the individual was a minor; and
  - b. The individual admitted the violation, was found to have committed the violation by the official having jurisdiction, or pled guilty to, was found guilty of, or adjudicated to have committed the offense.

**SECTION 4.** Section 39-06-01.2 of the North Dakota Century Code is created and enacted as follows:

**39-06-01.2. Anatomical gifting.**

The application for nondriver photo identification cards and driver's licenses issued to operators must include a statement making an anatomical gift and provide for the voluntary identification of the applicant as a donor under chapter 23-06.6. Voluntary identification of the applicant as a donor under chapter 23-06.6 also may be completed by an online registry approved by the director. If the applicant's donor intention is made by the online registry, the intention must be recorded on the applicant's record. The intention is not required on the identification card or license unless a duplicate card is obtained or at the time of renewal. The department may not be held civilly or criminally liable for any act or omission in implementing and maintaining the online registration of donors.

**SECTION 5. AMENDMENT.** Subsection 1 of section 39-06-03.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The director shall issue a nondriver color photo identification card to any North Dakota resident who fulfills the requirements of this section. An application for an identification card must be made on a form furnished by the director. Within thirty days from receipt

1 of a complete application that includes the applicant's social security number, unless  
2 the applicant is a nonimmigrant who is not eligible for a social security number, the  
3 director shall determine whether to issue and, if appropriate, issue a nondriver photo  
4 identification card to an applicant. ~~The application must provide for the voluntary~~  
5 ~~identification of the applicant as a donor under chapter 23-06.6. If requested on the~~  
6 ~~identification card application, the identification card issued by the director must~~  
7 ~~include a statement making an anatomical gift under chapter 23-06.6. Voluntary~~  
8 ~~identification of the applicant as a donor under chapter 23-06.6 also may be completed~~  
9 ~~by an online registry approved by the director. If the applicant's donor intention is~~  
10 ~~made by the online registry, the intention must be recorded on the applicant's record.~~  
11 ~~The intention is not required on the identification card unless a duplicate card is~~  
12 ~~obtained or at the time of renewal. The department may not be held civilly or criminally~~  
13 ~~liable for any act or omission in implementing and maintaining the online registration of~~  
14 ~~donors. If the person is under the age of eighteen or at least the age of eighteen and~~  
15 ~~under the age of twenty-one, the photo must be against the same color background~~  
16 ~~required on a motor vehicle operator's license for an operator of that age. Subject to~~  
17 ~~subsection 1 of section 39-06-19, identification cards expire eight years from the date~~  
18 ~~of issue and may be renewed. The application must contain such other information as~~  
19 ~~the director may require to improve identity security. The director may require an~~  
20 ~~applicant for an identification card to provide a social security card and proof of~~  
21 ~~residence address.~~

22 **SECTION 6. AMENDMENT.** Subsection 2 of section 39-06-07 of the North Dakota Century  
23 Code is amended and reenacted as follows:

- 24 2. Every application must state the full name, date of birth, sex, social security number,  
25 unless the applicant is a nonimmigrant who is not eligible for a social security number,  
26 residence and mailing address, and briefly describe the applicant. In signing the  
27 application the applicant is deemed to have certified that all information contained on  
28 the application is true and correct. The application must be accompanied by the proper  
29 fee. ~~The application must also provide for the voluntary identification of the applicant~~  
30 ~~as a donor under the provisions of chapter 23-06.6.~~ The application must contain such  
31 other information as the director may require to improve identity security. The director

1           may require an applicant for a license or instruction permit to provide a social security  
2           card and proof of residence address.

3           **SECTION 7. AMENDMENT.** Section 39-06-07.2 of the North Dakota Century Code is  
4           amended and reenacted as follows:

5           **39-06-07.2. Medical advice - Use by director.**

6           1.    The director is authorized to seek professional medical advice from ~~any physician or~~  
7           ~~optometrist authorized to practice in this state~~ a licensed medical care provider and to  
8           use that advice in decisions made by the director in regard to the issuance, renewal,  
9           suspension, revocation, or cancellation of driver's licenses pursuant to this chapter.  
10          The advice may be received in any manner deemed advisable by the director or the  
11          director's authorized agent.

12          2.    In addition to advice sought and received pursuant to subsection 1, the director may  
13          consider information and advice received from an individual applicant's or driver's  
14          personal ~~physician or optometrist~~ licensed medical care provider. Any examination and  
15          report requested by the applicant or driver or required to be taken and provided by the  
16          director pursuant to this chapter must be at the expense of the applicant or driver.

17          3.    Any ~~physician or optometrist~~ licensed medical care provider providing advice to the  
18          director or director's authorized agent pursuant to subsection 1 shall incur no liability  
19          for any opinion, recommendation, or advice provided.

20          4.    Advice and information received by the director or director's authorized agent pursuant  
21          to subsection 1 which relates to an individual applicant or driver is for the confidential  
22          use of the director or director's authorized agent in making decisions on the  
23          individual's qualifications as a driver, and the information may not be divulged to any  
24          person or used in evidence in any trial or proceeding except in matters concerning the  
25          individual's qualifications to receive or retain a driver's license.

26          5.    General advice and information received by the director or director's authorized agent  
27          pursuant to this section, in addition to other sources of information, may be used by  
28          the director in the adoption of administrative rules concerning medical criteria for driver  
29          licensing.

30          **SECTION 8. AMENDMENT.** Subsection 1 of section 39-06-14 of the North Dakota Century  
31          Code is amended and reenacted as follows:

1       1. The director, upon payment of a ten dollar fee, shall issue to every qualified applicant  
2       an operator's license as applied for in the form prescribed by the director. The license  
3       must bear a distinguishing number assigned to the licensee, a color photograph of the  
4       licensee, the full name, date of birth, residence address, and a brief description of the  
5       licensee, and either a facsimile of the signature of the licensee or a space upon which  
6       the licensee shall write the licensee's usual signature. The director may not issue a  
7       distinguishing number that is, contains, can be converted to, or is an encrypted version  
8       of the applicant's social security number. If the licensee is under the age of eighteen,  
9       the photograph must be against a color border or background that is different from the  
10      color used for other licensees. If the licensee is at least the age of eighteen and is  
11      under the age of twenty-one, the photograph must be against a color border or  
12      background that is different from the color used for other licensees. ~~If requested on the~~  
13      ~~license application, the license issued by the director must include a statement making~~  
14      ~~an anatomical gift under chapter 23-06.6. Voluntary identification of the applicant as a~~  
15      ~~donor under chapter 23-06.6 also may be completed by an online registry approved by~~  
16      ~~the director. If the applicant's donor intention is made by the online registry, the~~  
17      ~~intention must be recorded on the applicant's record. The intention is not required on~~  
18      ~~the license unless a duplicate license is obtained or at the time of renewal. The~~  
19      ~~department may not be held civilly or criminally liable for any act or omission in~~  
20      ~~implementing and maintaining the online registration of donors. No license is valid until~~  
21      it has been signed by the licensee with the licensee's usual signature. For purposes of  
22      verification, an officer may require the licensee to write the licensee's signature in the  
23      presence of the officer. The director may adopt rules, pursuant to chapter 28-32,  
24      relating to the manner in which photographs are to be obtained and placed on  
25      operator's licenses. The photograph may be produced by digital imaging or other  
26      electronic means and is not a public record.

27      **SECTION 9. AMENDMENT.** Subsection 4 of section 39-06-19 of the North Dakota Century  
28      Code is amended and reenacted as follows:

29      4. Every application for renewal of a license by an applicant must be accompanied by a  
30      certificate of examination from either the driver licensing or examining authorities or a  
31      ~~physician or an optometrist licensed medical care provider, licensed in this or another~~

1 state, containing a statement as to the corrected and uncorrected vision of the  
2 applicant. The director shall provide visual examination equipment at each location  
3 where a license may be renewed. The initial application for a motor vehicle operator's  
4 license may be accompanied by a statement of examination from a licensed physician-  
5 ~~or an optometrist~~ medical care provider, stating the corrected and uncorrected vision of  
6 the applicant, in lieu of the department examination. This examination must be within  
7 six months of the driver's license application.

8 **SECTION 10. AMENDMENT.** Section 39-06-24 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **39-06-24. Authority to cancel licenses.**

11 The director shall cancel any operator's license, permit, or nondriver photo identification  
12 card upon determining that the person is not entitled to the issuance of the document under the  
13 laws of this state or that said person failed to give the required or correct information on the  
14 application or the fee was in the form of an insufficient fund or no-account check or a credit or  
15 debit card in which the transaction was canceled by the applicant before the department  
16 received correct payment. The making of a false statement in any application for an operator's  
17 license, permit, or nondriver photo identification card, concerning the applicant's age or the prior  
18 loss of driving privileges through a cancellation, suspension, revocation, or similar sanction in  
19 any state, is grounds for the director to cancel any document or privilege issued on the basis of  
20 the application.

21 **SECTION 11. AMENDMENT.** Section 39-06-35 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **39-06-35. Period of suspension.**

24 When the period of suspension imposed under this title ceases, the operator's license or  
25 driving privilege that has been suspended may not be returned or reinstated, and remains under  
26 suspension, until the operator pays to the director a reinstatement fee of fifty dollars, or  
27 twenty-five dollars if the suspension was the result of a suspension under subsection 4, 5, or 7  
28 of section 39-06-03 or subsection 2 of section 39-06-32, or one hundred dollars if the  
29 suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if  
30 applicable, until compliance with subsection 3.1 of section 39-06.1-10. Upon payment of the  
31 reinstatement fee the license must be returned to the operator. If payment of the reinstatement

1 fee is submitted with a check or credit card and the operator stops payment on the transaction,  
2 the suspension will be reimposed until proper payment has been made to the director. A  
3 reinstatement fee is not required for a license to be returned to the operator if the return of the  
4 license is due to the findings of a hearing, reexamination of hearing, or court or judicial review  
5 under chapter 39-06, 39-06.1, or 39-20.

6 **SECTION 12. AMENDMENT.** Section 39-06-36 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **39-06-36. Restoration of revoked licenses.**

9 Any person whose license or privilege to drive a motor vehicle on the public highways has  
10 been revoked is not entitled to have such license or privilege renewed or restored unless the  
11 revocation was for a cause which has been removed, except that after the expiration of the  
12 revocation period such person may make application for a new license as provided by law, but  
13 the director may not then issue a new license unless and until the director is satisfied after  
14 investigation of the individual's driving records, driving habits, and driving ability of such person  
15 that it will be safe to grant the privilege of driving a motor vehicle on the public highways. A  
16 person whose license or privilege to drive a motor vehicle has been revoked must pay to the  
17 director a revocation reinstatement fee of fifty dollars, or one hundred dollars if the revocation  
18 was imposed for violation of subsection 5 of section 39-06-17, section 39-06-31, 39-06-43, or  
19 39-20-04, in addition to any license renewal fee, for issuance of a new license. If payment of a  
20 reinstatement fee is submitted with a check or credit card and the operator stops payment on  
21 the transaction, the suspension will be reimposed until proper payment has been made to the  
22 director. Until the reinstatement fee is paid the license and privilege to drive a motor vehicle  
23 remain under revocation. A reinstatement fee is not required if a revoked license is reinstated  
24 due to the findings of a hearing, reexamination of hearing, or court or judicial review as provided  
25 under chapter 39-06, 39-06.1, or 39-20.

26 **SECTION 13. AMENDMENT.** Section 39-06-40 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **39-06-40. Unlawful use of license - Penalty.**

29 It is a class B misdemeanor for any person:

- 1        1. To display or cause or permit to be displayed or have in possession any canceled,  
2        revoked, fictitious, or fraudulently altered operator's license, permit, or nondriver  
3        photo identification card;
- 4        2. To lend one's operator's license, permit, or nondriver photo identification card to any  
5        other person or knowingly permit the use thereof by another;
- 6        3. To display or represent as one's own any operator's license, permit, or nondriver  
7        identification card not issued to that person;
- 8        4. To fail or refuse to surrender to the director upon demand any operator's license,  
9        permit, or nondriver photo identification card which has been suspended, revoked, or  
10       canceled;
- 11       5. To permit any unlawful use of an operator's license, permit, or nondriver photo  
12       identification card issued to that person; or
- 13       6. To use a false or fictitious name in any application for an operator's license, permit, or  
14       nondriver photo identification card or to knowingly make a false statement or to  
15       conceal a material fact or otherwise commit a fraud in the application.

16 The director upon receiving a record of conviction or other satisfactory evidence of the violation  
17 of this section shall ~~immediately~~ revoke within five days, the person's operator's license, driving  
18 privileges, permit, or nondriver photo identification card. The period of revocation is at the  
19 discretion of the director, not to exceed six months.

20        **SECTION 14. AMENDMENT.** Subsection 3.1 of section 39-06.1-10 of the North Dakota  
21 Century Code is amended and reenacted as follows:

- 22       3.1. a. If the director is informed by a court that a person has been convicted of violating  
23       section 39-08-01, or equivalent ordinance, the director, subject to the offender's  
24       opportunity for hearing under subsection 1, ~~may not restore the operator's license-~~  
25       ~~to the offenders~~ shall suspend that person's driving privileges until the offender  
26       furnishes to the director the written statement of the counselor or instructor of an  
27       appropriate licensed addiction treatment program that the offender does not  
28       require either an education or treatment program or that the offender has  
29       physically attended the prescribed program and has complied with the  
30       attendance rules. The director shall send notice to the offender informing the  
31       offender of the provisions of this subsection.



- 1           b. If within the seven years preceding the most recent violation of section 39-08-01,  
2           or equivalent ordinance, the offender has previously violated section 39-08-01, or  
3           equivalent ordinance, at least three times, the ~~director may restore driving~~  
4           ~~privileges to the offender~~ driving privileges shall be suspended and can be  
5           restored only after that person has completed addiction treatment through an  
6           appropriate licensed addiction treatment program and has had no alcohol-related  
7           or drug-related offense for two consecutive years after completion of treatment.

8           **SECTION 15. AMENDMENT.** Subsection 2 of section 39-06.2-10 of the North Dakota  
9           Century Code is amended and reenacted as follows:

- 10          2. A person is disqualified for life if convicted of two or more violations of any of the  
11          offenses specified in subsection 1, 7, 9, or 11, or any combination of those offenses,  
12          arising from two or more separate incidents. Only offenses committed while operating  
13          a commercial motor vehicle after July 1, 1989, may be considered in applying this  
14          subsection. Only offenses committed while operating a noncommercial motor vehicle  
15          after August 1, 2003, may be considered in applying this subsection.

16          **SECTION 16. AMENDMENT.** Section 39-06.2-10.3 of the North Dakota Century Code is  
17          amended and reenacted as follows:

18          **39-06.2-10.3. Action following test result for a resident driver.**

19          If a person submits to a test under section 39-06.2-10.2 and the test shows that person to  
20          have an alcohol concentration of at least four one-hundredths of one percent by weight at the  
21          time of the performance of a chemical test within two hours after the driving or being in actual  
22          physical control of a commercial motor vehicle, the following procedures apply:

- 23          1. When a breath sample test result derived under section 39-20-07 reveals a resident  
24          driver to have an alcohol concentration of at least four one-hundredths of one percent  
25          by weight, the law enforcement officer shall immediately ~~take possession of the~~  
26          ~~person's commercial driver's license. The law enforcement officer shall issue the driver~~  
27          an out-of-service order as provided for in section 39-06.2-10.9. If the driver then has  
28          valid driving privileges, the law enforcement officer must issue to the driver a  
29          temporary driver's permit, in accordance with section 39-06.2-10.8.
- 30          2. If a test administered under section 39-06.2-10.2 was by a urine or blood sample and  
31          the person tested is not a resident of an area in which the law enforcement officer has

jurisdiction, the law enforcement officer shall, on receiving the analysis of the sample by the director of the state crime laboratory or the director's designee showing that person had an alcohol concentration of at least four one-hundredths of one percent by weight, either proceed in accordance with subsection 1 during that person's reappearance within the officer's jurisdiction or notify a law enforcement agency having jurisdiction where the person lives. On that notification, that law enforcement agency shall immediately ~~take possession of the person's North Dakota commercial driver's license or permit and, within twenty-four hours, forward it and a copy of the temporary driver's permit to the halting officer. The law enforcement agency shall also, on taking possession of the person's commercial driver's license, issue to that person a temporary driver's permit according to section 39-06.2-10.8.~~

3. The halting officer, within five days of the issuance of the temporary driver's permit, shall forward to the director a certified written report in the form required by the director and the person's commercial driver's license taken under subsection 1 or 2. If the person was issued a temporary driver's permit because of the results of a test, the report must show that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle while in violation of section 39-06.2-10.1, that the person was lawfully detained, that the person was tested for alcohol concentration under this chapter, and that the results of the test show that the person had an alcohol concentration of at least four one-hundredths of one percent by weight. In addition to the commercial driver's license and report, the law enforcement officer must forward to the director a certified copy of the operational checklist and test records of a breath test and a copy of the certified copy of the analytical report for a blood or urine test for all tests administered at the direction of the officer.

**SECTION 17. AMENDMENT.** Section 39-10.2-06 of the North Dakota Century Code is amended and reenacted as follows:

**39-10.2-06. Equipment for motorcycle riders.**

1. No person under the age of eighteen years may operate or ride upon a motorcycle unless ~~protective headgear, which complies with standards established by the department,~~ a safety helmet meeting United States department of transportation

1           standards is being worn on the head of the operator and rider, except when  
2           participating in a lawful parade. If the operator of a motorcycle is required to wear  
3           ~~protective headgear~~ safety helmet, any passenger must also wear ~~protective-~~  
4           ~~headgear~~ safety helmet regardless of the age of the passenger.

5           2. This section does not apply to persons riding within an enclosed cab or on a golf cart.

6           3. No person may operate a motorcycle if a person under the age of eighteen years is a  
7           passenger upon that motorcycle and is not wearing ~~protective headgear~~ safety  
8           helmet as provided in subsection 1.

9           **SECTION 18. AMENDMENT.** Subsection 2 of section 39-16.1-07 of the North Dakota  
10          Century Code is amended and reenacted as follows:

11           2. If a person by final order or judgment is convicted of or forfeits any bail or collateral  
12           deposited to secure an appearance for trial for any offense requiring the revocation of  
13           license, driving or being in actual physical control of a vehicle while under the  
14           influence in violation of section 39-08-01 or equivalent ordinance, or operating a motor  
15           vehicle upon the highway while the person's license or privilege to drive is under  
16           suspension for a violation requiring a license or privilege to drive suspension of at  
17           least ninety-one days or revocation, the license or driving privilege must ~~remain~~ be  
18           suspended or revoked and no license may be issued or returned to the person, unless  
19           the person gives and maintains proof of financial responsibility.

20           **SECTION 19. AMENDMENT.** Subsection 2 of section 39-27-05 of the North Dakota  
21          Century Code is amended and reenacted as follows:

22           2. Tires on two-wheel motorcycles and the ~~front~~ single tire on the front or rear of a  
23           three-wheel motorcycle must have a load capacity rating at least equal to their  
24           respective gross axle weight ratings. Each tire on the front or rear axle of a  
25           three-wheel motorcycle must have a load capacity rating at least equal to one-half the  
26           front or rear axle gross axle weight rating.

27           **SECTION 20. AMENDMENT.** Subsections 2 and 5 of section 39-27-06 of the North Dakota  
28          Century Code are amended and reenacted as follows:

29           2. The rear wheel of a two-wheel motorcycle must track behind the front wheel within one  
30           inch [2.54 centimeters] with both wheels in a vertical plane when the vehicle is  
31           operating on a straight course. On a three-wheel motorcycle, the ~~two wheels mounted~~

on the rear axle must have a wheel track distance no less than thirty inches [76.2-centimeters] and the midpoint of the rear wheel track distance must be within one inch [2.54 centimeters] of the frontmidpoint of the front or rear wheel track distance must be within one inch [2.54 centimeters] of the single front or single rear wheel track when the vehicle is proceeding on a straight course. The vehicle must be equipped with an adjustment feature that will provide proper wheel tracking.

5. Handlebars must be of sturdy construction, adequate in size to provide proper leverage for steering, and capable of withstanding a minimum force of one hundred pounds [45.36 kilograms] applied to each handgrip in any direction. Handlebar grips may not be located above the shoulder height of the seated operator and must be capable of vertical adjustment. The handlebars must provide a minimum of eighteen inches [45.72 centimeters] between grip after final assembly.