

**SENATE BILL NO. 2113**  
**with House Amendments**  
**SENATE BILL NO. 2113**

Sixty-second  
Legislative Assembly  
of North Dakota

Introduced by

Judiciary Committee

(At the request of the Attorney General)

1 A BILL for an Act to amend and reenact sections 20.1-13.1-01 and 20.1-13.1-03, subsections 2  
2 and 3 of section 20.1-13.1-05, subsections 2 and 4 of section 20.1-13.1-08, sections  
3 20.1-13.1-10, 20.1-15-01, and 20.1-15-03, subsections 2 and 3 of section 20.1-15-05,  
4 subsections 2 and 4 of section 20.1-15-08, sections 20.1-15-11 and 20.1-15-15, subsection 4 of  
5 section 39-06.2-10.6, sections 39-20-01 and 39-20-02, subsections 2, 3, and 4 of section  
6 39-20-03.1, subsections 2 and 3 of section 39-20-03.2, subsections 2 and 4 of section  
7 39-20-05, and sections 39-20-07, 39-20-14, 39-24.1-01, 39-24.1-03, and 39-24.1-08 of the  
8 North Dakota Century Code, relating to chemical tests and the state crime laboratory.

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

10 **SECTION 1. AMENDMENT.** Section 20.1-13.1-01 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **20.1-13.1-01. Implied consent to determine ~~alcoholic~~alcohol concentration and ~~drug-~~  
13 ~~content~~presence of blood~~drugs~~.**

14 Any ~~person~~individual who operates a motorboat or vessel in this state is deemed to have  
15 given consent, and shall consent, subject to this chapter, to a chemical test, or tests, of the  
16 blood, breath, ~~saliva~~, or urine for the purpose of determining the ~~alcoholic, other drug~~alcohol  
17 concentration or presence of other drugs, or combination thereof, ~~content of~~ in the individual's  
18 blood, breath, or urine. As used in this chapter, "operates" means to be in motion, en route, but  
19 not at anchor or aground; "vessel" means any watercraft used or designed to be used for  
20 navigation on the water such as a boat operated by machinery, either permanently or  
21 temporarily affixed, a sailboat other than a sailboard, an inflatable manually propelled boat, a  
22 canoe, kayak, or rowboat, but does not include an inner tube, air mattress, or other water toy;  
23 "drug" means any drug or substance or combination of drugs or substances which renders a  
24 ~~person~~an individual incapable of safely operating a motorboat or vessel; and "chemical test"

1 means any test or tests to determine the ~~alcoholic, or other drug~~ alcohol concentration or  
2 presence of other drugs, or combination thereof, ~~content of~~ in the individual's blood, breath,  
3 ~~saliva~~, or urine, approved by the director of the state crime laboratory or the director's designee  
4 under this chapter. The chemical test must be administered at the direction of a game warden or  
5 a law enforcement officer only after placing the ~~person~~ individual, except ~~persons~~ individuals  
6 mentioned in section 20.1-13.1-04, under arrest and informing that ~~person~~ individual that the  
7 ~~person~~ individual is or will be charged with the offense of operating a motorboat or vessel while  
8 under the influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of  
9 this chapter, the taking into custody of a minor under section 27-20-13 satisfies the requirement  
10 of an arrest. The game warden or law enforcement officer shall also inform the ~~person~~ individual  
11 charged that refusal of the ~~person~~ individual to submit to the chemical test determined  
12 appropriate will result in that ~~person~~ individual being prohibited from operating a motorboat or  
13 vessel for up to three years. The game warden or law enforcement officer shall determine the  
14 chemical test to be used. When a minor is taken into custody for violating section 20.1-13-07,  
15 the game warden or law enforcement officer shall diligently attempt to contact the minor's  
16 parent or legal guardian to explain the cause for the custody and the implied consent chemical  
17 testing requirements. Neither the game warden or law enforcement officer's efforts to contact,  
18 nor any consultation with, a parent or legal guardian may be permitted to interfere with the  
19 administration of chemical testing requirements under this chapter.

20 **SECTION 2. AMENDMENT.** Section 20.1-13.1-03 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **20.1-13.1-03. ~~Persons~~ Individuals qualified to administer chemical test and**  
23 **opportunity for additional test.**

24 Only an individual medically qualified to draw blood, acting at the request of a game warden  
25 or a law enforcement officer, may withdraw blood for the purpose of determining the ~~alcoholic,~~  
26 ~~drug~~ alcohol concentration or presence of other drugs, or combination thereof, ~~content of~~ in the  
27 individual's blood. The director of the state crime laboratory or the director's designee shall  
28 determine the qualifications or credentials for being medically qualified to draw blood and shall  
29 issue a list of approved designations, including medical doctor and registered nurse. This  
30 limitation does not apply to the taking of a breath, ~~saliva~~, or urine specimen. The director of the  
31 state crime laboratory, or the director's designee, shall electronically post a copy of the certified

1 list of approved designations, including medical doctor and registered nurse, with the state  
2 crime laboratory division of the attorney general at the attorney general website and shall make  
3 the certified records required by this section available for download in a printable format on the  
4 attorney general website. The ~~person~~individual tested may have an individual of that  
5 ~~person's~~individual's own choosing, who is medically qualified to draw blood, administer a  
6 chemical test in addition to any administered at the direction of a game warden or a law  
7 enforcement officer with all costs of the additional chemical test to be the responsibility of the  
8 ~~person~~individual charged. The failure or inability to obtain an additional chemical test by a  
9 ~~person~~individual does not preclude the admission of the chemical test taken at the direction of a  
10 game warden or a law enforcement officer. Upon the request of the ~~person~~individual who is  
11 tested, a copy of the operational checklist and test record of a breath sample test or analytical  
12 report of a blood, or urine, or saliva sample test taken at the direction of the game warden or  
13 law enforcement officer must be made available to that ~~person~~individual by the department or  
14 law enforcement agency that administered the chemical test.

15 **SECTION 3. AMENDMENT.** Subsections 2 and 3 of section 20.1-13.1-05 of the North  
16 Dakota Century Code are amended and reenacted as follows:

- 17 2. If a chemical test administered under section 20.1-13.1-01 or 20.1-13.1-04 was by  
18 ~~saliva or~~ urine sample or by drawing blood as provided in section 20.1-13.1-03 and the  
19 ~~person~~individual tested does not reside in an area in which the game warden or law  
20 enforcement officer has jurisdiction, the game warden or law enforcement officer shall,  
21 on receiving the analysis of the ~~saliva, urine, or~~ blood from the director of the state  
22 crime laboratory or the director's designee and if the analysis shows that  
23 ~~person~~individual had an alcohol, other drug, or a combination thereof concentration of  
24 at least ten one-hundredths of one percent by weight, either proceed in accordance  
25 with subsection 1 during that ~~person's~~individual's reappearance within the game  
26 warden's or officer's jurisdiction or notify a game warden or law enforcement agency  
27 having jurisdiction where the ~~person~~individual resides. On that notification, that game  
28 warden or law enforcement agency shall immediately issue a statement of intent to  
29 prohibit the ~~person~~individual from operating a motorboat or vessel. The issuance of a  
30 statement of intent to prohibit the ~~person~~individual from operating a motorboat or  
31 vessel serves as the director's official notification to the ~~person~~individual of the

1 director's intent to prohibit the ~~person~~individual from operating a motorboat or vessel in  
2 this state.

3 3. The game warden or law enforcement officer, within five days of issuing the statement  
4 of intent, shall forward to the director a certified written report in the form required by  
5 the director. If the statement was given because of the results of a chemical test, the  
6 report must show that the game warden or officer had probable cause to believe the  
7 ~~person~~individual had been operating a motorboat or vessel while in violation of section  
8 20.1-13-07, that the ~~person~~individual was lawfully arrested, that the ~~person~~individual  
9 was chemically tested under this chapter, and that the results of the test show that the  
10 ~~person~~individual had an alcohol, other drug, or a combination thereof concentration of  
11 at least ten one-hundredths of one percent by weight. In addition to the report, the  
12 game warden or law enforcement officer shall forward to the director a certified copy of  
13 the operational checklist and test records of a breath test and a copy of the certified  
14 copy of the analytical report for a blood, ~~saliva~~, or urine test for all tests administered  
15 at the direction of the game warden or officer.

16 **SECTION 4. AMENDMENT.** Subsections 2 and 4 of section 20.1-13.1-08 of the North  
17 Dakota Century Code are amended and reenacted as follows:

18 2. If the issue to be determined by the hearing concerns the prohibition from operating a  
19 motorboat or vessel for operating a motorboat or vessel while having an alcohol, other  
20 drug, or a combination thereof concentration of at least ten one-hundredths of one  
21 percent by weight, the hearing must be before a hearing officer assigned by the  
22 director and at a time and place designated by the director. The hearing must be  
23 recorded and its scope may cover only the issues of whether the arresting warden or  
24 officer had probable cause to believe the ~~person~~individual had been operating a  
25 motorboat or vessel in violation of section 20.1-13-07; whether the ~~person~~individual  
26 was placed under arrest; whether the ~~person~~individual was tested in accordance with  
27 section 20.1-13.1-01 or 20.1-13.1-04 and, if applicable, section 20.1-13.1-03; and  
28 whether the chemical test results show the ~~person~~individual had an alcohol, other  
29 drug, or a combination thereof concentration of at least ten one-hundredths of one  
30 percent by weight. For purposes of this section, a copy of a certified copy of an  
31 analytical report of a blood, or urine, ~~or saliva~~ sample from the director of the state

1 crime laboratory or the director's designee, or a certified copy of the checklist and test  
2 records from a certified breath test operator establish prima facie the alcohol, other  
3 drug, or a combination thereof concentration shown therein. Whether the  
4 ~~person~~individual was informed that that ~~person~~individual may be prohibited from  
5 operating a motorboat or vessel based on the results of the chemical test is not an  
6 issue.

7 4. At a hearing under this section, the regularly kept records of the director and state  
8 crime laboratory may be introduced. Those records establish prima facie their contents  
9 without further foundation. For purposes of this chapter, the following are deemed  
10 regularly kept records of the director and state crime laboratory: ~~any~~

11 a. Any copy of a certified copy of an analytical report of a blood, ~~or~~ urine, or saliva  
12 sample received by the director from the director of the state crime laboratory or  
13 the director's designee or a game warden or a law enforcement officer, ~~or~~ a  
14 certified copy of the checklist and test records received by the director from a  
15 certified breath test operator; ~~and any~~

16 b. Any copy of a certified copy of a certificate of the director of the state crime  
17 laboratory or the director's designee relating to approved methods, devices,  
18 operators, materials, and checklists used for testing for alcohol, ~~other drug~~  
19 concentration or the presence of other drugs, or a combination thereof  
20 ~~concentration~~, received by the director from the director of the state crime  
21 laboratory or the director's designee, ~~or the recorder, unless the board of county~~  
22 ~~commissioners has designated a different official to maintain the certificate that~~  
23 have been electronically posted with the state crime laboratory division of the  
24 attorney general at the attorney general website.

25 **SECTION 5. AMENDMENT.** Section 20.1-13.1-10 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **20.1-13.1-10. Interpretation of chemical tests.**

28 Upon the trial of any action or proceeding arising out of acts alleged to have been  
29 committed by any ~~person~~individual while operating a motorboat or vessel while under the  
30 influence of intoxicating liquor, drugs, or a combination thereof, evidence of the amount of  
31 alcohol, concentration or presence of other drugs, or a combination thereof, in the

1 ~~person's~~individual's blood, ~~breath, or urine~~ at the time of the act alleged as shown by a chemical  
2 analysis of the blood, breath, ~~saliva,~~ or urine is admissible. For the purpose of this section:

- 3 1. ~~A person~~An individual having an alcohol, other drug, or a combination thereof  
4 concentration of at least ten one-hundredths of one percent by weight at the time of  
5 the performance of a chemical test within two hours after operating a motorboat or  
6 vessel is under the influence of intoxicating liquor, drugs, or a combination thereof at  
7 the time of operating a motorboat or vessel.
- 8 2. Alcohol concentration is based upon grams of alcohol per one hundred ~~eubic-~~  
9 ~~centimeters~~milliliters of blood or grams of alcohol per two hundred ten liters of end  
10 expiratory breath or grams of alcohol per sixty-seven ~~eubic-centimeters~~milliliters of  
11 urine.
- 12 3. The results of the chemical test must be received in evidence when it is shown that the  
13 sample was properly obtained and the test was fairly administered, and if the test is  
14 shown to have been performed according to methods and with devices approved by  
15 the director of the state crime laboratory or the director's designee, and by an  
16 individual possessing a certificate of qualification to administer the test issued by the  
17 director of the state crime laboratory or the director's designee. The director of the  
18 state crime laboratory or the director's designee is authorized to approve satisfactory  
19 devices and methods of chemical tests and determine the qualifications of individuals  
20 to conduct such tests, and shall issue a certificate to every qualified operator. An  
21 operator shall exhibit the certificate upon demand of the ~~person~~individual requested to  
22 take the chemical test.
- 23 4. The director of the state crime laboratory or the director's designee may appoint, train,  
24 certify, and supervise field inspectors of breath testing equipment and its operation,  
25 and the inspectors shall report the findings of any inspection to the director of the state  
26 crime laboratory or the director's designee for appropriate action. Upon approval of the  
27 methods or devices, or both, required to perform the tests and the ~~persons~~individuals  
28 qualified to administer them, the director of the state crime laboratory or the director's  
29 designee shall prepare, certify, and ~~file~~electronically post a written record of the  
30 approval with the ~~director and the recorder in each county, unless the board of county-~~

~~commissioners designates a different official~~ state crime laboratory division of the attorney general at the attorney general website, and shall include in the record:

- a. An annual register of the specific testing devices currently approved, including serial number, location, and the date and results of last inspection.
- b. An annual register of currently qualified and certified operators of the devices, stating the date of certification and its expiration.
- c. The operational checklist and forms prescribing the methods currently approved by the director of the state crime laboratory or the director's designee in using the devices during the administration of the tests.
- d. ~~The material filed~~ certified records electronically posted under this section may be supplemented when the director of the state crime laboratory or the director's designee determines it to be necessary, and any certified supplemental material ~~has records have~~ the same force and effect as the ~~material that it supplements~~ records that are supplemented.
- e. The state crime laboratory shall make the certified records required by this section available for download in a printable format on the attorney general website.

5. Copies of the state crime laboratory certified records referred to in subsections 3 and 4, ~~certified by the recorder, or designated official, that have been electronically posted with the state crime laboratory division of the attorney general at the attorney general website~~ must be admitted as prima facie evidence of the matters stated in the records.
6. A certified copy of the analytical report of a blood; or urine; ~~or saliva~~ test issued by the director of the state crime laboratory or the director's designee must be accepted as prima facie evidence of the results of a chemical test performed under this chapter.
7. Notwithstanding any statute or rule to the contrary, the defendant in any criminal proceeding may subpoena, without cost to the defendant, the ~~person~~ individual who conducted the chemical test referred to in this section to testify at the trial on the issue of the amount of alcohol; concentration or presence of other drugs, or a combination thereof, in the defendant's blood, breath, ~~saliva~~, or urine at the time of the alleged act.

1       8.    A signed statement from the nurse or medical technician drawing the blood sample for  
2            testing as set forth in subsection 3 is prima facie evidence that the blood sample was  
3            properly drawn and no further foundation for the admission of such evidence may be  
4            required.

5       **SECTION 6. AMENDMENT.** Section 20.1-15-01 of the North Dakota Century Code is  
6   amended and reenacted as follows:

7       **20.1-15-01. Implied consent to determine ~~aleeholical~~alcohol concentration and drug-**  
8 **~~content~~presence of blooddrugs.**

9       Any ~~person~~individual who is afield with a gun or other firearm or a bow and arrow is  
10   deemed to have given consent, and shall consent, subject to this chapter, to a chemical test of  
11   the blood, breath, ~~saliva~~, or urine for the purpose of determining the ~~aleeholic, other drug~~alcohol  
12 concentration or presence of other drugs, or combination thereof, ~~content of in~~ the individual's  
13 blood, breath, or urine. As used in this chapter, "drug" means any drug or substance or  
14   combination of drugs or substances which renders a ~~person~~an individual incapable of safely  
15   hunting or being afield with a gun or other firearm or a bow and arrow, and "chemical test"  
16   means any test or tests to determine the ~~aleeholic, or other drug~~alcohol concentration or  
17 presence of other drugs, or combination thereof, ~~content of in~~ the individual's blood, breath,  
18 ~~saliva~~, or urine, approved by the director of the state crime laboratory or the director's designee  
19   under this chapter. The chemical test must be administered at the direction of a game warden or  
20   a law enforcement officer only after placing the ~~person~~individual, except ~~persons~~individuals  
21   mentioned in section 20.1-15-04, under arrest and informing that ~~person~~individual that the  
22   ~~person~~individual is or will be charged with the offense of being afield with a gun or other firearm  
23   or a bow and arrow while under the influence of intoxicating liquor, drugs, or a combination  
24   thereof. For the purposes of this chapter, the taking into custody of a minor under section  
25   27-20-13 satisfies the requirement of an arrest. The game warden or law enforcement officer  
26   shall also inform the ~~person~~individual charged that refusal of the ~~person~~individual to submit to  
27   the chemical test determined appropriate will result in a revocation for up to four years of the  
28   ~~person's~~individual's hunting privileges. The game warden or law enforcement officer shall  
29   determine the chemical test to be used. When a minor is taken into custody for violating section  
30   20.1-01-06, the game warden or law enforcement officer shall diligently attempt to contact the  
31   minor's parent or legal guardian to explain the cause for the custody and the implied consent



1 chemical testing requirements. Neither the game warden or law enforcement officer's efforts to  
2 contact, nor any consultation with, a parent or legal guardian may be permitted to interfere with  
3 the administration of chemical testing requirements under this chapter.

4 **SECTION 7. AMENDMENT.** Section 20.1-15-03 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **20.1-15-03. ~~Persons~~Individuals qualified to administer chemical test and opportunity**  
7 **for additional test.**

8 Only an individual medically qualified to draw blood, acting at the request of a game warden  
9 or a law enforcement officer, may withdraw blood for the purpose of determining the ~~alcoholic,~~  
10 ~~drug~~alcohol concentration or presence of other drugs, or combination thereof, ~~content of~~in the  
11 individual's blood. The director of the state crime laboratory or the director's designee shall  
12 determine the qualifications or credentials for being medically qualified to draw blood and shall  
13 issue a list of approved designations, including medical doctor and registered nurse. This  
14 limitation does not apply to the taking of a breath, ~~saliva~~, or urine specimen. The director of the  
15 state crime laboratory, or the director's designee, shall electronically post a copy of the certified  
16 list of approved designations, including medical doctor and registered nurse, with the state  
17 crime laboratory division of the attorney general at the attorney general website and shall make  
18 the certified records required by this section available for download in a printable format on the  
19 attorney general website. The ~~person~~individual tested may have an individual of that  
20 ~~person's~~individual's own choosing, who is medically qualified to draw blood, administer a  
21 chemical test in addition to any administered at the direction of a game warden or a law  
22 enforcement officer with all costs of the additional chemical test to be the responsibility of the  
23 ~~person~~individual charged. The failure or inability to obtain an additional chemical test by a  
24 ~~person~~an individual does not preclude the admission of the chemical test taken at the direction  
25 of a game warden or a law enforcement officer. Upon the request of the ~~person~~individual who is  
26 tested, a copy of the operational checklist and test record of a breath sample test or analytical  
27 report of a blood, or urine, ~~or saliva~~ sample test taken at the direction of the game warden or  
28 law enforcement officer must be made available to that ~~person~~individual by the department or  
29 law enforcement agency that administered the chemical test.

30 **SECTION 8. AMENDMENT.** Subsections 2 and 3 of section 20.1-15-05 of the North Dakota  
31 Century Code are amended and reenacted as follows:

- 1        2. If a chemical test administered under section 20.1-15-01 or 20.1-15-04 was by saliva-  
2        or urine sample or by drawing blood as provided in section 20.1-15-03 and the  
3        ~~person~~individual tested does not reside in an area in which the game warden or law  
4        enforcement officer has jurisdiction, the game warden or law enforcement officer shall,  
5        on receiving the analysis of the ~~saliva~~, urine, or blood from the director of the state  
6        crime laboratory or the director's designee and if the analysis shows that  
7        ~~person~~individual had an alcohol, other drug, or a combination thereof concentration of  
8        at least ten one-hundredths of one percent by weight, either proceed in accordance  
9        with subsection 1 during that ~~person's~~individual's reappearance within the game  
10       warden's or officer's jurisdiction or notify a game warden or law enforcement agency  
11       having jurisdiction where the ~~person~~individual resides. On that notification, that game  
12       warden or law enforcement agency shall immediately issue a statement of intent to  
13       revoke, suspend, or deny hunting privileges and take possession of the  
14       ~~person's~~individual's hunting license if it is then available and, within twenty-four hours,  
15       forward the license to the game warden or law enforcement agency making the arrest  
16       or to the director. The issuance of a statement of intent to revoke, suspend, or deny  
17       hunting privileges and the taking of possession of the ~~person's~~individual's hunting  
18       license serves as the director's official notification to the ~~person~~individual of the  
19       director's intent to revoke, suspend, or deny hunting privileges in this state.
- 20       3. The game warden or law enforcement officer, within five days of issuing the statement  
21       of intent and taking possession of the hunting license, shall forward to the director a  
22       certified written report in the form required by the director and the ~~person's~~individual's  
23       hunting license taken under subsection 1 or 2. If the notice was given and the license  
24       was taken because of the results of a chemical test, the report must show that the  
25       game warden or officer had reasonable grounds to believe the ~~person~~individual had  
26       been afield with a gun or other firearm or a bow and arrow while in violation of section  
27       20.1-01-06, that the ~~person~~individual was lawfully arrested, that the ~~person~~individual  
28       was chemically tested under this chapter, and that the results of the test show that the  
29       ~~person~~individual had an alcohol, other drug, or a combination thereof concentration of  
30       at least ten one-hundredths of one percent by weight. In addition to the report, the  
31       game warden or law enforcement officer shall 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, ~~saliva~~, or urine test for all tests administered at the direction of the game warden or officer.

**SECTION 9. AMENDMENT.** Subsections 2 and 4 of section 20.1-15-08 of the North Dakota Century Code are amended and reenacted as follows:

2. If the issue to be determined by the hearing concerns suspension of hunting privileges for being afield with a gun or other firearm or a bow and arrow while having an alcohol, other drug, or a combination thereof concentration of at least ten one-hundredths of one percent by weight, the hearing must be before a hearing officer assigned by the director and at a time and place designated by the director. The hearing must be recorded and its scope may cover only the issues of whether the arresting warden or officer had reasonable grounds to believe the ~~person~~individual had been afield with a gun or other firearm or bow and arrow in violation of section 20.1-01-06; whether the ~~person~~individual was placed under arrest; whether the ~~person~~individual was tested in accordance with section 20.1-15-01 or 20.1-15-04 and, if applicable, section 20.1-15-03; and whether the chemical test results show the ~~person~~individual had an alcohol, other drug, or a combination thereof concentration of at least ten one-hundredths of one percent by weight. For purposes of this section, a copy of a certified copy of an analytical report of a blood, or urine, ~~or saliva~~ sample from the director of the state crime laboratory or the director's designee, or a certified copy of the checklist and test records from a certified breath test operator establish prima facie the alcohol, other drug, or a combination thereof concentration shown therein. Whether the ~~person~~individual was informed that the privilege to hunt might be suspended based on the results of the chemical test is not an issue.

4. At a hearing under this section, the regularly kept records of the director and the state crime laboratory may be introduced. Those records establish prima facie their contents without further foundation. For purposes of this chapter, the following are deemed regularly kept records of the director and the state crime laboratory: any

a. Any copy of a certified copy of an analytical report of a blood, or urine, ~~or saliva~~ sample received by the director from the director of the state crime laboratory or the director's designee or a game warden or a law enforcement officer, or a

certified copy of the checklist and test records received by the director from a  
certified breath test operator; and any

b. Any copy of a certified copy of a certificate of the director of the state crime  
laboratory or the director's designee relating to approved methods, devices,  
operators, materials, and checklists used for testing for alcohol, ~~other drug~~  
concentration or the presence of other drugs, or a combination thereof  
~~concentration~~, received by the director from the director of the state crime  
laboratory or the director's designee, ~~or the recorder, unless the board of county-~~  
~~commissioners has designated a different official to maintain the certificate that~~  
have been electronically posted with the state crime laboratory division of the  
attorney general at the attorney general website.

**SECTION 10. AMENDMENT.** Section 20.1-15-11 of the North Dakota Century Code is  
amended and reenacted as follows:

**20.1-15-11. Interpretation of chemical tests.**

Upon the trial of any action or proceeding arising out of acts alleged to have been  
committed by any ~~person~~individual while being afield with a gun or other firearm or a bow and  
arrow while under the influence of intoxicating liquor, drugs, or a combination thereof, evidence  
of the amount of alcohol, concentration or presence of other drugs, or a combination thereof, in  
the ~~person's~~individual's blood, breath, or urine at the time of the act alleged as shown by a  
chemical analysis of the blood, breath, ~~saliva~~, or urine is admissible. For the purpose of this  
section:

1. ~~A person~~An individual having, at that time, an alcohol, other drug, or a combination  
thereof concentration of not more than five one-hundredths of one percent by weight is  
presumed not to be under the influence of intoxicating liquor, drugs, or a combination  
thereof.
2. Evidence that there was at that time more than five one-hundredths of one percent by  
weight alcohol, other drug, or a combination thereof concentration in a ~~person~~an  
individual is relevant evidence, but it is not to be given prima facie effect in indicating  
whether the ~~person~~individual was under the influence of intoxicating liquor, drugs, or a  
combination thereof.

- 1       3.   ~~A person~~An individual having an alcohol, other drug, or a combination thereof  
2           concentration of at least ten one-hundredths of one percent by weight at the time of  
3           the performance of a chemical test within two hours after being afield with a gun or  
4           other firearm or a bow and arrow is under the influence of intoxicating liquor, drugs, or  
5           a combination thereof at the time of being afield with a gun or other firearm or bow and  
6           arrow.
- 7       4.   Alcohol concentration is based upon grams of alcohol per one hundred ~~cubic-~~  
8           ~~centimeters~~milliliters of blood or grams of alcohol per two hundred ten liters of end  
9           expiratory breath or grams of alcohol per sixty-seven ~~cubic centimeters~~milliliters of  
10          urine.
- 11      5.   The results of the chemical test must be received in evidence when it is shown that the  
12          sample was properly obtained and the test was fairly administered, and if the test is  
13          shown to have been performed according to methods and with devices approved by  
14          the director of the state crime laboratory or the director's designee, and by an  
15          individual possessing a certificate of qualification to administer the test issued by the  
16          director of the state crime laboratory or the director's designee. The director of the  
17          state crime laboratory or the director's designee is authorized to approve satisfactory  
18          devices and methods of chemical tests and determine the qualifications of individuals  
19          to conduct such tests, and shall issue a certificate to every qualified operator. An  
20          operator shall exhibit the certificate upon demand of the ~~person~~individual requested to  
21          take the chemical test.
- 22      6.   The director of the state crime laboratory or the director's designee may appoint, train,  
23          certify, and supervise field inspectors of breath testing equipment and its operation,  
24          and the inspectors shall report the findings of any inspection to the director of the state  
25          crime laboratory or the director's designee for appropriate action. Upon approval of the  
26          methods or devices, or both, required to perform the tests and the ~~persons~~individuals  
27          qualified to administer them, the director of the state crime laboratory or the director's  
28          designee shall prepare, certify, and file~~electronically post~~ a written record of the  
29          approval with the ~~director and the recorder in each county, unless the board of county~~  
30          ~~commissioners designates a different official~~state crime laboratory division of the  
31          attorney general at the attorney general website, and shall include in the record:

- 1           a.    An annual register of the specific testing devices currently approved, including
- 2                serial number, location, and the date and results of last inspection.
- 3           b.    An annual register of currently qualified and certified operators of the devices,
- 4                stating the date of certification and its expiration.
- 5           c.    The operational checklist and forms prescribing the methods currently approved
- 6                by the director of the state crime laboratory or the director's designee in using the
- 7                devices during the administration of the tests.
- 8           d.    The material filed~~certified records electronically posted~~ under this section may be
- 9                supplemented when the director of the state crime laboratory or the director's
- 10              designee determines it to be necessary, and any certified supplemental material
- 11              ~~has~~records have the same force and effect as the ~~material that it~~
- 12              ~~supplements~~records that are supplemented.
- 13           e.    The state crime laboratory shall make the certified records required by this
- 14                section available for download in a printable format on the attorney general
- 15                website.
- 16        7.    Copies of the state crime laboratory certified records referred to in subsections 5
- 17              and 6, ~~certified by the recorder, or designated official, that have been electronically~~
- 18              posted with the state crime laboratory division of the attorney general at the attorney
- 19              general website must be admitted as prima facie evidence of the matters stated in the
- 20              records.
- 21        8.    A certified copy of the analytical report of a blood; ~~or urine, or saliva~~ test issued by the
- 22              director of the state crime laboratory or the director's designee must be accepted as
- 23              prima facie evidence of the results of a chemical test performed under this chapter.
- 24        9.    Notwithstanding any statute or rule to the contrary, the defendant in any criminal
- 25              proceeding may subpoena, without cost to the defendant, the ~~person~~individual who
- 26              conducted the chemical test referred to in this section to testify at the trial on the issue
- 27              of the amount of alcohol; concentration or presence of other drugs, or a combination
- 28              thereof in the defendant's blood, breath, ~~saliva~~, or urine at the time of the alleged act.
- 29        10.   A signed statement from the individual medically qualified to draw the blood sample for
- 30              testing as set forth in subsection 5 is prima facie evidence that the blood sample was

1 properly drawn and no further foundation for the admission of this evidence may be  
2 required.

3 **SECTION 11. AMENDMENT.** Section 20.1-15-15 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **20.1-15-15. Screening tests.**

6 Any ~~person~~individual who is afield with a gun or other firearm or a bow and arrow is  
7 deemed to have given consent to submit to an onsite screening test of the ~~person's~~individual's  
8 breath for the purpose of estimating the alcohol, ~~other drug, or a combination thereof~~ content of  
9 concentration in the person's bloodindividual's breath upon the request of a game warden or a  
10 law enforcement officer who has reason to believe and has, through the officer's observations,  
11 formulated an opinion that the ~~person's~~individual's body contains alcohol, ~~other drugs, or a~~  
12 ~~combination thereof.~~ A ~~person~~An individual may not be required to submit to a screening test of  
13 breath while at a hospital as a patient if the medical practitioner in immediate charge of the  
14 ~~person's~~individual's case is not first notified of the proposal to make the requirement or objects  
15 to the test on the ground that such would be prejudicial to the proper care or treatment of the  
16 patient. The screening test must be performed by a game warden or an enforcement officer  
17 certified as a chemical test operator by the director of the state crime laboratory or the director's  
18 designee and according to methods and with devices approved by the director of the state  
19 crime laboratory or the director's designee. The results of the screening test must be used only  
20 for determining whether a further test is to be given under the provisions of section 20.1-15-01.  
21 The officer shall inform the ~~person~~individual that refusal of the ~~person~~individual to submit to a  
22 screening test will result in a revocation for up to four years of that ~~person's~~individual's hunting  
23 privileges. If the ~~person~~individual refuses to submit to the screening test, none may be given,  
24 but the refusal is sufficient cause to revoke the ~~person's~~individual's hunting privileges in the  
25 same manner as provided in section 20.1-15-06, and a hearing as provided in section  
26 20.1-15-08 and a judicial review as provided in section 20.1-15-09 must be available. However,  
27 the director may not revoke a ~~person's~~an individual's hunting privileges for refusing to submit to  
28 a screening test requested under this section if the ~~person~~individual provides a sufficient breath,  
29 blood, or urine sample for a chemical test requested under section 20.1-15-01 for the same  
30 incident. This section does not supersede any provisions of sections 20.1-15-01 through  
31 20.1-15-14, nor does any provision of sections 20.1-15-01 through 20.1-15-14 supersede this

1 section except as provided herein. For the purposes of this section, "chemical test operator"  
2 means ~~a person~~an individual certified by the director of the state crime laboratory or the  
3 director's designee as qualified to perform analysis for alcohol, other drugs, or a combination  
4 thereof in ~~a person's~~an individual's blood, breath, ~~saliva~~, or urine.

5 **SECTION 12. AMENDMENT.** Subsection 4 of section 39-06.2-10.6 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7 4. At a hearing under this section, the regularly kept records of the director and the state  
8 crime laboratory may be introduced. Those records establish prima facie their contents  
9 without further foundation. For purposes of this chapter, the following are deemed  
10 regularly kept records of the director and the state crime laboratory: ~~any~~

11 a. Any copy of a certified copy of an analytical report of a blood or urine sample  
12 received by the director from the director of the state crime laboratory or the  
13 director's designee or a law enforcement officer, a certified copy of the checklist  
14 and test records received by the director from a certified breath test operator;;  
15 and ~~any~~

16 b. Any copy of a certified copy of a certificate of the director of the state crime  
17 laboratory or the director's designee relating to approved methods, devices,  
18 operators, materials, and checklists used for testing for alcohol concentration  
19 received by the director from the director of the state crime laboratory or the  
20 director's designee, ~~or the recorder, unless the board of county commissioners~~  
21 ~~has designated a different official to maintain the certificate~~ that have been  
22 electronically posted with the state crime laboratory division of the attorney  
23 general at the attorney general website.

24 **SECTION 13. AMENDMENT.** Section 39-20-01 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **39-20-01. Implied consent to determine alcohol concentration and ~~drug~~**  
27 **~~content~~presence of blood~~drugs~~.**

28 Any ~~person~~individual who operates a motor vehicle on a highway or on public or private  
29 areas to which the public has a right of access for vehicular use in this state is deemed to have  
30 given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or  
31 tests, of the blood, breath, ~~saliva~~, or urine for the purpose of determining the alcohol, ~~other drug~~



1 concentration or presence of other drugs, or combination thereof, ~~content of~~ in the individual's  
2 blood, breath, or urine. As used in this chapter, the word "drug" means any drug or substance or  
3 combination of drugs or substances which renders a ~~person~~ individual incapable of safely  
4 driving, and the words "chemical test" or "chemical analysis" mean any test to determine the  
5 alcohol, ~~or other drug~~ concentration or presence of other drugs, or combination thereof, ~~content~~  
6 ~~of~~ in the individual's blood, breath, ~~saliva~~, or urine, approved by the director of the state crime  
7 laboratory or the director's designee under this chapter. The test or tests must be administered  
8 at the direction of a law enforcement officer only after placing the ~~person~~ individual, except  
9 ~~persons~~ individuals mentioned in section 39-20-03, under arrest and informing that  
10 ~~person~~ individual that the ~~person~~ individual is or will be charged with the offense of driving or  
11 being in actual physical control of a vehicle upon the public highways while under the influence  
12 of intoxicating liquor, drugs, or a combination thereof. For the purposes of this chapter, the  
13 taking into custody of a child under section 27-20-13 or a ~~person~~ individual under twenty-one  
14 years of age satisfies the requirement of an arrest. The law enforcement officer shall also inform  
15 the ~~person~~ individual charged that refusal of the ~~person~~ individual to submit to the test  
16 determined appropriate will result in a revocation for up to four years of the ~~person's~~ individual's  
17 driving privileges. The law enforcement officer shall determine which of the tests is to be used.  
18 When a ~~person~~ individual under the age of eighteen years is taken into custody for violating  
19 section 39-08-01 or an equivalent ordinance, the law enforcement officer shall attempt to  
20 contact the ~~person's~~ individual's parent or legal guardian to explain the cause for the custody.  
21 Neither the law enforcement officer's efforts to contact, nor any consultation with, a parent or  
22 legal guardian may be permitted to interfere with the administration of chemical testing  
23 requirements under this chapter. The law enforcement officer shall mail a notice to the parent or  
24 legal guardian of the minor within ten days after the test results are received or within ten days  
25 after the minor is taken into custody if the minor refuses to submit to testing. The notice must  
26 contain a statement of the test performed and the results of that test; or if the minor refuses to  
27 submit to the testing, a statement notifying of that fact. The attempt to contact or the contacting  
28 or notification of a parent or legal guardian is not a precondition to the admissibility of chemical  
29 test results or the finding of a consent to, or refusal of, chemical testing by the ~~person~~ individual  
30 in custody.

1       **SECTION 14. AMENDMENT.** Section 39-20-02 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **39-20-02. ~~Persons~~Individuals qualified to administer test and opportunity for**  
4 **additional test.**

5       Only an individual medically qualified to draw blood, acting at the request of a law  
6 enforcement officer, may withdraw blood for the purpose of determining the alcohol, ~~drug-~~  
7 concentration or presence of other drugs, or combination thereof, ~~content therein in the~~  
8 individual's blood. The director of the state crime laboratory or the director's designee shall  
9 determine the qualifications or credentials for being medically qualified to draw blood, and shall  
10 issue a list of approved designations including medical doctor and registered nurse. This  
11 limitation does not apply to the taking of a breath, ~~saliva~~, or urine specimen. The director of the  
12 state crime laboratory, or the director's designee, shall electronically post a copy of the certified  
13 list of approved designations, including medical doctor and registered nurse, with the state  
14 crime laboratory division of the attorney general at the attorney general website and shall make  
15 the certified records required by this section available for download in a printable format on the  
16 attorney general website. The ~~person~~individual tested may have an individual of the  
17 ~~person's~~individual's choosing, who is medically qualified to draw blood, administer a chemical  
18 test or tests in addition to any administered at the direction of a law enforcement officer with all  
19 costs of an additional test or tests to be the sole responsibility of the ~~person~~individual charged.  
20 The failure or inability to obtain an additional test by a ~~person~~an individual does not preclude the  
21 admission of the test or tests taken at the direction of a law enforcement officer. Upon the  
22 request of the ~~person~~individual who is tested, a copy of the operational checklist and test record  
23 of a breath sample test or analytical report of a blood, or urine, ~~or saliva~~ sample test taken at  
24 the direction of the law enforcement officer must be made available to that ~~person~~individual by  
25 the law enforcement agency that administered the test or tests.

26       **SECTION 15. AMENDMENT.** Subsections 2, 3, and 4 of section 39-20-03.1 of the North  
27 Dakota Century Code are amended and reenacted as follows:

28       2. If a test administered under section 39-20-01 or 39-20-03 was by ~~saliva or~~ urine  
29 sample or by drawing blood as provided in section 39-20-02 and the ~~person~~individual  
30 tested is not a resident of an area in which the law enforcement officer has jurisdiction,  
31 the law enforcement officer shall, on receiving the analysis of the ~~saliva~~, urine, or

1 blood from the director of the state crime laboratory or the director's designee and if  
2 the analysis shows that ~~person~~individual had an alcohol concentration of at least eight  
3 one-hundredths of one percent by weight or, with respect to a ~~person~~an individual  
4 under twenty-one years of age, an alcohol concentration of at least two  
5 one-hundredths of one percent by weight, either proceed in accordance with  
6 subsection 1 during that ~~person's~~individual's reappearance within the officer's  
7 jurisdiction, proceed in accordance with subsection 3, or notify a law enforcement  
8 agency having jurisdiction where the ~~person~~individual lives. On that notification, that  
9 law enforcement agency shall, within twenty-four hours, forward a copy of the  
10 temporary operator's permit to the law enforcement agency making the arrest or to the  
11 director. The law enforcement agency shall issue to that ~~person~~individual a temporary  
12 operator's permit as provided in this section, and shall sign and date the permit as  
13 provided in subsection 1.

14 3. If the test results indicate an alcohol concentration at or above the legal limit, the law  
15 enforcement agency making the arrest may mail a temporary operator's permit to the  
16 ~~person~~individual who submitted to the blood, ~~or urine, or saliva~~ test, whether or not the  
17 ~~person~~individual is a resident of the area in which the law enforcement officer has  
18 jurisdiction. The third day after the mailing of the temporary operator's permit is  
19 considered the date of issuance. Actual notice of the opportunity for a hearing under  
20 this section is deemed to have occurred seventy-two hours after the notice is mailed  
21 by regular mail to the address submitted by the ~~person~~individual to the law  
22 enforcement officer. The temporary operator's permit serves as the director's official  
23 notification to the ~~person~~individual of the director's intent to revoke, suspend, or deny  
24 driving privileges in this state.

25 4. The law enforcement officer, within five days of the issuance of the temporary  
26 operator's permit, shall forward to the director a certified written report in the form  
27 required by the director. If the ~~person~~individual was issued a temporary operator's  
28 permit because of the results of a test, the report must show that the officer had  
29 reasonable grounds to believe the ~~person~~individual had been driving or was in actual  
30 physical control of a motor vehicle while in violation of section 39-08-01, or equivalent  
31 ordinance, that the ~~person~~individual was lawfully arrested, that the ~~person~~individual

1 was tested for alcohol concentration under this chapter, and that the results of the test  
2 show that the ~~person~~individual had an alcohol concentration of at least eight  
3 one-hundredths of one percent by weight or, with respect to a ~~person~~an individual  
4 under twenty-one years of age, an alcohol concentration of at least two  
5 one-hundredths of one percent by weight. In addition to the operator's license and  
6 report, the law enforcement officer shall forward to the director a certified copy of the  
7 operational checklist and test records of a breath test and a copy of the certified copy  
8 of the analytical report for a blood, ~~saliva~~, or urine test for all tests administered at the  
9 direction of the officer.

10 **SECTION 16. AMENDMENT.** Subsections 2 and 3 of section 39-20-03.2 of the North  
11 Dakota Century Code are amended and reenacted as follows:

- 12 2. If the test was administered by ~~saliva or~~ urine sample or by drawing blood, the law  
13 enforcement officer, on reviewing the alcohol concentration analysis showing the  
14 ~~person~~individual had an alcohol concentration of at least eight one-hundredths of one  
15 percent by weight or, with respect to a ~~person~~an individual under twenty-one years of  
16 age, an alcohol concentration of at least two one-hundredths of one percent by weight,  
17 shall mail or issue to the ~~person~~individual a notification of the test results, a temporary  
18 operator's permit extending nonresident operating privileges in this state for  
19 twenty-five days from the date of mailing or issuance or until earlier terminated by the  
20 decision of a hearing officer under section 39-20-05, and notice of the intent to revoke,  
21 suspend, or deny driving privileges in this state, together with the notice provided  
22 under section 39-06.1-07 of the procedures available under this chapter. The  
23 temporary operator's permit must be signed and dated by the officer. The third day  
24 after the mailing of the temporary operator's permit is considered the date of issuance.
- 25 3. The law enforcement officer, within five days of issuing the temporary operator's  
26 permit, shall forward to the director a certified written report in the form required by the  
27 director and a certified copy of the operational checklist and test records of a breath  
28 test and a copy of the certified copy of the analytical report for a blood, ~~saliva~~, or urine  
29 test for all tests administered at the direction of the officer. If the ~~person~~individual was  
30 issued a temporary operator's permit because of the ~~person's~~individual's refusal to  
31 submit to a test under sections 39-20-01 and 39-20-14, the report must include

1 information as provided in section 39-20-04. If the ~~person~~individual was issued a  
2 temporary operator's permit because of the results of a test, the report must show that  
3 the officer had reasonable grounds to believe the ~~person~~individual had been driving or  
4 was in actual physical control of a motor vehicle while in violation of section 39-08-01,  
5 or equivalent ordinance, that the ~~person~~individual was lawfully arrested, that the  
6 ~~person~~individual was tested for alcohol concentration under this chapter, and that the  
7 results of the test show that the ~~person~~individual had an alcohol concentration of at  
8 least eight one-hundredths of one percent by weight or, with respect to a ~~person~~an  
9 individual under twenty-one years of age, an alcohol concentration of at least two  
10 one-hundredths of one percent by weight.

11 **SECTION 17. AMENDMENT.** Subsections 2 and 4 of section 39-20-05 of the North Dakota  
12 Century Code are amended and reenacted as follows:

13 2. If the issue to be determined by the hearing concerns license suspension for operating  
14 a motor vehicle while having an alcohol concentration of at least eight one-hundredths  
15 of one percent by weight or, with respect to a ~~person~~an individual under twenty-one  
16 years of age, an alcohol concentration of at least two one-hundredths of one percent  
17 by weight, the hearing must be before a hearing officer assigned by the director and at  
18 a time and place designated by the director. The hearing must be recorded and its  
19 scope may cover only the issues of whether the arresting officer had reasonable  
20 grounds to believe the ~~person~~individual had been driving or was in actual physical  
21 control of a vehicle in violation of section 39-08-01 or equivalent ordinance or, with  
22 respect to a ~~person~~an individual under twenty-one years of age, the ~~person~~individual  
23 had been driving or was in actual physical control of a vehicle while having an alcohol  
24 concentration of at least two one-hundredths of one percent by weight; whether the  
25 ~~person~~individual was placed under arrest, unless the ~~person~~individual was under  
26 twenty-one years of age and the alcohol concentration was less than eight  
27 one-hundredths of one percent by weight, then arrest is not required and is not an  
28 issue under any provision of this chapter; whether the ~~person~~individual was tested in  
29 accordance with section 39-20-01 or 39-20-03 and, if applicable, section 39-20-02;  
30 and whether the test results show the ~~person~~individual had an alcohol concentration of  
31 at least eight one-hundredths of one percent by weight or, with respect to a ~~person~~an

1            individual under twenty-one years of age, an alcohol concentration of at least two  
2            one-hundredths of one percent by weight. For purposes of this section, a copy of a  
3            certified copy of an analytical report of a blood; or urine; or saliva sample from the  
4            director of the state crime laboratory or the director's designee or a certified copy of  
5            the checklist and test records from a certified breath test operator establish prima facie  
6            the alcohol concentration or the presence of drugs, or a combination thereof, shown  
7            therein. Whether the ~~person~~individual was informed that the privilege to drive might be  
8            suspended based on the results of the test is not an issue.

9            4. At a hearing under this section, the regularly kept records of the director and state  
10           crime laboratory may be introduced. Those records establish prima facie their contents  
11           without further foundation. For purposes of this chapter, the following are deemed  
12           regularly kept records of the director and state crime laboratory: any

13           a. Any copy of a certified copy of an analytical report of a blood; or urine; or saliva  
14           sample received by the director from the director of the state crime laboratory or  
15           the director's designee or a law enforcement officer; or a certified copy of the  
16           checklist and test records received by the director from a certified breath test  
17           operator; and any

18           b. Any copy of a certified copy of a certificate of the director of the state crime  
19           laboratory or the director's designee relating to approved methods, devices,  
20           operators, materials, and checklists used for testing for alcohol concentration or  
21           the presence of drugs received by the director from the director of the state crime  
22           laboratory; or the director's designee, or ~~the recorder, unless the board of county~~  
23           ~~commissioners has designated a different official to maintain the certificate that~~  
24           have been electronically posted with the state crime laboratory division of the  
25           attorney general at the attorney general website.

26           **SECTION 18. AMENDMENT.** Section 39-20-07 of the North Dakota Century Code is  
27           amended and reenacted as follows:

28           **39-20-07. Interpretation of chemical tests.**

29           Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have  
30           been committed by any ~~person~~individual while driving or in actual physical control of a motor  
31           vehicle while under the influence of intoxicating liquor, drugs, or a combination thereof,

1 evidence of the amount of alcohol, concentration or presence of other drugs, or a combination  
2 thereof, in the ~~person's~~individual's blood, breath, or urine at the time of the act alleged as shown  
3 by a chemical analysis of the blood, breath, ~~saliva,~~ or urine is admissible. For the purpose of  
4 this section:

- 5 1. ~~A person~~An individual having, at that time, an alcohol concentration of not more than  
6 five one-hundredths of one percent by weight is presumed not to be under the  
7 influence of intoxicating liquor. This presumption has no application to the  
8 administration of chapter 39-06.2.
- 9 2. Evidence that there was at that time more than five one-hundredths of one percent by  
10 weight alcohol concentration in ~~a person~~an individual is relevant evidence, but it is not  
11 to be given prima facie effect in indicating whether the ~~person~~individual was under the  
12 influence of intoxicating liquor.
- 13 3. ~~A person~~An individual having an alcohol concentration of at least eight one-hundredths  
14 of one percent by weight or, with respect to ~~a person~~an individual under twenty-one  
15 years of age, an alcohol concentration of at least two one-hundredths of one percent  
16 by weight at the time of the performance of a chemical test within two hours after  
17 driving or being in physical control of a vehicle is under the influence of intoxicating  
18 liquor at the time of driving or being in physical control of a vehicle.
- 19 4. Alcohol concentration is based upon grams of alcohol per one hundred milliliters of  
20 blood or grams of alcohol per two hundred ten liters of end expiratory breath or grams  
21 of alcohol per sixty-seven milliliters of urine.
- 22 5. The results of the chemical analysis must be received in evidence when it is shown  
23 that the sample was properly obtained and the test was fairly administered, and if the  
24 test is shown to have been performed according to methods and with devices  
25 approved by the director of the state crime laboratory or the director's designee, and  
26 by an individual possessing a certificate of qualification to administer the test issued by  
27 the director of the state crime laboratory or the director's designee. The director of the  
28 state crime laboratory or the director's designee is authorized to approve satisfactory  
29 devices and methods of chemical analysis and determine the qualifications of  
30 individuals to conduct such analysis, and shall issue a certificate to all qualified

1 operators who exhibit the certificate upon demand of the ~~person~~individual requested to  
2 take the chemical test.

3 6. The director of the state crime laboratory or the director's designee may appoint, train,  
4 certify, and supervise field inspectors of breath testing equipment and its operation,  
5 and the inspectors shall report the findings of any inspection to the director of the state  
6 crime laboratory or the director's designee for appropriate action. Upon approval of the  
7 methods or devices, or both, required to perform the tests and the ~~persons~~individuals  
8 qualified to administer them, the director of the state crime laboratory or the director's  
9 designee shall prepare, certify, and ~~file~~electronically post a written record of the  
10 approval with the director and the recorder in each county, ~~unless the board of county~~  
11 ~~commissioners designates a different official~~state crime laboratory division of the  
12 attorney general at the attorney general website, and shall include in the record:

- 13 a. An annual register of the specific testing devices currently approved, including  
14 serial number, location, and the date and results of last inspection.
- 15 b. An annual register of currently qualified and certified operators of the devices,  
16 stating the date of certification and its expiration.
- 17 c. The operational checklist and forms prescribing the methods currently approved  
18 by the director of the state crime laboratory or the director's designee in using the  
19 devices during the administration of the tests.
- 20 d. The ~~material filed~~certified records electronically posted under this section may be  
21 supplemented when the director of the state crime laboratory or the director's  
22 designee determines it to be necessary, and any certified supplemental ~~material~~  
23 ~~has~~records have the same force and effect as the ~~material that it~~  
24 ~~supplements~~records that are supplemented.
- 25 e. The state crime laboratory shall make the certified records required by this  
26 section available for download in a printable format on the attorney general  
27 website.

28 7. Copies of the state crime laboratory certified records referred to in subsections 5  
29 and 6, ~~certified by the recorder, or designated official, that have been electronically~~  
30 posted with the state crime laboratory division of the attorney general at the attorney



1           general website must be admitted as prima facie evidence of the matters stated in the  
2           records.

3           8. A certified copy of the analytical report of a blood; ~~or urine, or saliva~~ analysis referred  
4           to in subsection 5 and which is issued by the director of the state crime laboratory or  
5           the director's designee must be accepted as prima facie evidence of the results of a  
6           chemical analysis performed under this chapter. The certified copy satisfies the  
7           directives of subsection 5.

8           9. Notwithstanding any statute or rule to the contrary, a defendant who has been found to  
9           be indigent by the court in the criminal proceeding at issue may subpoena, without  
10          cost to the defendant, the ~~person~~individual who conducted the chemical analysis  
11          referred to in this section to testify at the trial on the issue of the amount of alcohol;  
12          concentration or presence of other drugs, or a combination thereof in the defendant's  
13          blood, breath, ~~saliva~~, or urine at the time of the alleged act. If the state toxicologist, the  
14          director of the state crime laboratory, or any employee of either, is subpoenaed to  
15          testify by a defendant who is not indigent and the defendant does not call the witness  
16          to establish relevant evidence, the court shall order the defendant to pay costs to the  
17          witness as provided in section 31-01-16. An indigent defendant may also subpoena  
18          the individual who withdrew the defendant's blood by following the same procedure.

19          10. A signed statement from the individual medically qualified to draw the blood sample for  
20          testing as set forth in subsection 5 is prima facie evidence that the blood sample was  
21          properly drawn and no further foundation for the admission of this evidence may be  
22          required.

23          **SECTION 19. AMENDMENT.** Section 39-20-14 of the North Dakota Century Code is  
24          amended and reenacted as follows:

25          **39-20-14. Screening tests.**

26          Any ~~person~~individual who operates a motor vehicle upon the public highways of this state is  
27          deemed to have given consent to submit to an onsite screening test or tests of the  
28          ~~person's~~individual's breath for the purpose of estimating the alcohol ~~content of~~concentration in  
29          the ~~person's blood~~individual's breath upon the request of a law enforcement officer who has  
30          reason to believe that the ~~person~~individual committed a moving traffic violation or was involved  
31          in a traffic accident as a driver, and in conjunction with the violation or the accident the officer

1 has, through the officer's observations, formulated an opinion that the ~~person's~~individual's body  
2 contains alcohol. ~~A person~~An individual may not be required to submit to a screening test or  
3 tests of breath while at a hospital as a patient if the medical practitioner in immediate charge of  
4 the ~~person's~~individual's case is not first notified of the proposal to make the requirement, or  
5 objects to the test or tests on the ground that such would be prejudicial to the proper care or  
6 treatment of the patient. The screening test or tests must be performed by an enforcement  
7 officer certified as a chemical test operator by the director of the state crime laboratory or the  
8 director's designee and according to methods and with devices approved by the director of the  
9 state crime laboratory or the director's designee. The results of such screening test must be  
10 used only for determining whether or not a further test shall be given under the provisions of  
11 section 39-20-01. The officer shall inform the ~~person~~individual that refusal of the  
12 ~~person~~individual to submit to a screening test will result in a revocation for up to four years of  
13 that ~~person's~~individual's driving privileges. If such ~~person~~individual refuses to submit to such  
14 screening test or tests, none may be given, but such refusal is sufficient cause to revoke such  
15 ~~person's~~individual's license or permit to drive in the same manner as provided in section  
16 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in  
17 section 39-20-06 must be available. However, the director must not revoke a ~~person's~~an  
18 individual's driving privileges for refusing to submit to a screening test requested under this  
19 section if the ~~person~~individual provides a sufficient breath, blood, or urine sample for a chemical  
20 test requested under section 39-20-01 for the same incident. No provisions of this section may  
21 supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be  
22 construed to supersede this section except as provided herein. For the purposes of this section,  
23 "chemical test operator" means a ~~person~~an individual certified by the director of the state crime  
24 laboratory or the director's designee as qualified to perform analysis for alcohol in a ~~person's~~an  
25 individual's blood, breath, ~~saliva~~, or urine.

26 **SECTION 20. AMENDMENT.** Section 39-24.1-01 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **39-24.1-01. Implied consent to determine alcohol concentration and ~~drug-~~**  
29 **~~content~~presence of blood~~drugs~~.**

30 ~~A person~~An individual who operates a snowmobile on any public land or private land with  
31 public access is deemed to have given consent, and shall consent, subject to this chapter, to a

1 chemical test, or tests, of the blood, breath, ~~saliva,~~ or urine for the purpose of determining the  
2 alcohol, ~~other drug~~ concentration or presence of other drugs, or combination thereof, ~~content-~~  
3 ~~of~~ in the individual's blood, breath, or urine. As used in this chapter, the definitions in section  
4 39-24-01 apply, and in addition, "chemical test" means any test or tests to determine the  
5 alcohol, ~~or other drug~~ concentration or presence of other drugs, or combination thereof, ~~content-~~  
6 ~~of~~ in the individual's blood, breath, ~~saliva,~~ or urine, approved by the director of the state crime  
7 laboratory or the director's designee under this chapter; and "drug" means any drug or  
8 substance or combination of drugs or substances which renders ~~a person~~ an individual  
9 incapable of safely operating a snowmobile. The chemical test must be administered at the  
10 direction of a law enforcement officer only after placing the ~~person~~ individual, except  
11 ~~persons~~ individuals mentioned in section 39-24.1-04, under arrest and informing that  
12 ~~person~~ individual that the ~~person~~ individual is or will be charged with the offense of operating a  
13 snowmobile while under the influence of intoxicating liquor, drugs, or a combination thereof. For  
14 the purposes of this chapter, the taking into custody of a minor under section 27-20-13 satisfies  
15 the requirement of an arrest. The law enforcement officer shall also inform the ~~person~~ individual  
16 charged that refusal of the ~~person~~ individual to submit to the chemical test determined  
17 appropriate will result in that ~~person~~ individual being prohibited from operating a snowmobile for  
18 up to three years. The law enforcement officer shall determine the chemical test to be used.  
19 When a minor is taken into custody for violating subdivision c of subsection 5 of section  
20 39-24-09, the law enforcement officer shall diligently attempt to contact the minor's parent or  
21 legal guardian to explain the cause for the custody and the implied consent chemical testing  
22 requirements. Neither the law enforcement officer's efforts to contact, nor any consultation with,  
23 a parent or legal guardian may be permitted to interfere with the administration of chemical  
24 testing requirements under this chapter.

25 **SECTION 21. AMENDMENT.** Section 39-24.1-03 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **39-24.1-03. ~~Persons~~ Individuals qualified to administer chemical test and opportunity**  
28 **for additional test.**

29 Only an individual medically qualified to draw blood, acting at the request of a law  
30 enforcement officer, may withdraw blood for the purpose of determining the alcohol, ~~drug-~~  
31 concentration or presence of other drugs, or combination thereof, ~~content of~~ in the individual's

1 blood. The director of the state crime laboratory or the director's designee shall determine the  
2 qualifications or credentials for being medically qualified to draw blood, and shall issue a list of  
3 approved designations including medical doctor and registered nurse. This limitation does not  
4 apply to the taking of a breath, ~~saliva~~, or urine specimen. The director of the state crime  
5 laboratory, or the director's designee, shall electronically post a copy of the certified list of  
6 approved designations, including medical doctor and registered nurse, with the state crime  
7 laboratory division of the attorney general at the attorney general website and shall make the  
8 certified records required by this section available for download in a printable format on the  
9 attorney general website. The ~~person~~individual tested may have an individual of that  
10 ~~person's~~individual's own choosing, who is medically qualified to draw blood, administer a  
11 chemical test in addition to any administered at the direction of a law enforcement officer with all  
12 costs of the additional chemical test to be the responsibility of the ~~person~~individual charged. The  
13 failure or inability to obtain an additional chemical test by a ~~person~~an individual does not  
14 preclude the admission of the chemical test taken at the direction of a law enforcement officer.  
15 Upon the request of the ~~person~~individual who is tested, a copy of the operational checklist and  
16 test record of a breath sample test or analytical report of a blood, ~~or urine, or saliva~~ sample test  
17 taken at the direction of the law enforcement officer must be made available to that  
18 ~~person~~individual by the law enforcement agency that administered the chemical test.

19 **SECTION 22. AMENDMENT.** Section 39-24.1-08 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 **39-24.1-08. Interpretation of chemical tests.**

22 Upon the trial of any action or proceeding arising out of acts alleged to have been  
23 committed by any ~~person~~individual while operating a snowmobile while under the influence of  
24 intoxicating liquor, drugs, or a combination thereof, evidence of the amount of alcohol,  
25 concentration or presence of other drugs, or a combination thereof, in the person'sindividual's  
26 blood, breath, or urine at the time of the act alleged as shown by a chemical analysis of the  
27 blood, breath, ~~saliva~~, or urine is admissible. For the purpose of this section:

- 28 1. ~~A person~~An individual having a drug in that ~~person's~~individual's body or an alcohol  
29 concentration of at least ten one-hundredths of one percent by weight at the time of  
30 the performance of a chemical test within two hours after operating a snowmobile is

under the influence of intoxicating liquor, drugs, or a combination thereof at the time of operating a snowmobile.

2. Alcohol concentration is based upon grams of alcohol per one hundred ~~cubic-centimeters~~milliliters of blood or grams of alcohol per two hundred ten liters of end expiratory breath or grams of alcohol per sixty-seven ~~cubic-centimeters~~milliliters of urine.

3. The results of the chemical test must be received in evidence when it is shown that the sample was properly obtained and the test was fairly administered, and if the test is shown to have been performed according to methods and with devices approved by the director of the state crime laboratory or the director's designee, and by an individual possessing a certificate of qualification to administer the test issued by the director of the state crime laboratory or the director's designee. The director of the state crime laboratory or the director's designee is authorized to approve satisfactory devices and methods of chemical tests and determine the qualifications of individuals to conduct such tests, and shall issue a certificate to every qualified operator. An operator shall exhibit the certificate upon demand of the ~~person~~individual requested to take the chemical test.

4. The director of the state crime laboratory or the director's designee may appoint, train, certify, and supervise field inspectors of breath testing equipment and its operation, and the inspectors shall report the findings of any inspection to the director of the state crime laboratory or the director's designee for appropriate action. Upon approval of the methods or devices, or both, required to perform the tests and the ~~persons~~individuals qualified to administer them, the director of the state crime laboratory or the director's designee shall prepare, certify, and file electronically post a written record of the approval with the director and the recorder in each county, ~~unless the board of county commissioners designates a different official~~state crime laboratory division of the attorney general at the attorney general website, and shall include in the record:

- a. An annual register of the specific testing devices currently approved, including serial number, location, and the date and results of last inspection.
- b. An annual register of currently qualified and certified operators of the devices, stating the date of certification and its expiration.

- 1           c. The operational checklist and forms prescribing the methods currently approved  
2           by the director of the state crime laboratory or the director's designee in using the  
3           devices during the administration of the tests.
- 4           d. ~~The material filed~~certified records electronically posted under this  
5           ~~subsection~~section may be supplemented when the director of the state crime  
6           laboratory or the director's designee determines it to be necessary, and any  
7           certified supplemental ~~material has~~records have the same force and effect as the  
8           ~~material that it supplements~~records that are supplemented.
- 9           e. The state crime laboratory shall make the certified records required by this  
10          section available for download in a printable format on the attorney general  
11          website.
- 12          5. Copies of the state crime laboratory certified records referred to in subsections 3  
13          and 4, ~~certified by the recorder, or designated official,~~that have been electronically  
14          posted with the state crime laboratory division of the attorney general at the attorney  
15          general website must be admitted as prima facie evidence of the matters stated in the  
16          records.
- 17          6. A certified copy of the analytical report of a blood; or urine; ~~or saliva~~ test issued by the  
18          director of the state crime laboratory or the director's designee must be accepted as  
19          prima facie evidence of the results of a chemical test performed under this chapter.
- 20          7. Notwithstanding any statute or rule to the contrary, the defendant in any criminal  
21          proceeding may subpoena, without cost to the defendant, the ~~person~~individual who  
22          conducted the chemical test referred to in this section to testify at the trial on the issue  
23          of the amount of alcohol; concentration or presence of other drugs, or a combination  
24          thereof, in the defendant's blood, breath, ~~saliva~~, or urine at the time of the alleged act.
- 25          8. A signed statement from the individual medically qualified to draw the blood sample for  
26          testing as set forth in subsection 3 is prima facie evidence that the blood sample was  
27          properly drawn and no further foundation for the admission of this evidence may be  
28          required.