

**HOUSE BILL NO. 1291**

Introduced by

Representatives Mahoney, Fairfield, Keiser, R. Kelsch

Senators Kringstad, O'Connell

1 A BILL for an Act to create and enact sections 39-06-04.1, 39-06-04.2, 39-06-04.3, 39-06-04.4,  
2 39-06-04.5, and 39-06-04.6 of the North Dakota Century Code, relating to a graduated motor  
3 vehicle driver licensing program for minors; to amend and reenact sections 39-06-03,  
4 39-06-03.1, 39-06-04, 39-06-05, 39-06-07, 39-06-08, and 39-06-17 of the North Dakota Century  
5 Code, relating to a graduated motor vehicle driver licensing program for minors; and to provide  
6 an effective date.

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

8 **SECTION 1. AMENDMENT.** Section 39-06-03 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **39-06-03. ~~What persons~~ Persons who may not be licensed.** The director may not  
11 issue any license hereunder:

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

15 2. To any person whose license has been suspended in this state or in any other  
16 state during ~~such~~ the suspension, except as provided in section 39-06.1-03 or  
17 39-06.1-11, nor to any person whose license has been revoked, except as  
18 provided in sections 39-06-35 and 39-06-36.

19 ~~3.~~ 2. To any person who is an habitual drunkard, or is an habitual user of narcotic drugs,  
20 or is an habitual user of any other drug to a degree ~~which~~ that renders the person  
21 incapable of safely driving a motor vehicle.

22 ~~4.~~ 3. To any person who has previously been adjudged to be afflicted with or suffering  
23 from any mental disability or disease and who has not at the time of application  
24 been restored to competency by the methods provided by law.

- 1       ~~5-~~ 4. To any person who is required by this chapter to take an examination, unless ~~such~~  
2           that person has successfully passed ~~such~~ the examination.
- 3       ~~6-~~ 5. To any person who is required under the laws of this state to deposit security or file  
4           proof of financial responsibility and who has not deposited ~~such~~ the security or filed  
5           ~~such~~ the proof.
- 6       ~~7-~~ 6. To any person when the director has good cause to believe that ~~such~~ the person  
7           by reason of physical or mental disability would not be able to operate a motor  
8           vehicle with safety upon the highways.
- 9       ~~8-~~ 7. To any person when the director has good cause to believe that the operation of a  
10          motor vehicle on the highways by ~~such~~ the person would be inimical to public  
11          safety or welfare.
- 12       ~~9- Repealed by S.L. 1977, ch. 348, § 2.~~

13           **SECTION 2. AMENDMENT.** Section 39-16-03.1 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15           **39-16-03.1. Entries on driver record abstract more than three years old**  
16 **confidential.** Notwithstanding any other provisions of this chapter, no entry more than three  
17 years old or an entry concerning a suspension under subsection 3, 4, 5, or 6, ~~or 7~~ of section  
18 39-06-03, or subsection 2, 5, or 6 of section 39-06-32, after the suspension ceases, on a driver  
19 record or abstract ~~shall be~~ is available to the public, except for statistical purposes, other than  
20 by order of a court of competent jurisdiction. The order must be accompanied by a fee of  
21 twenty-five dollars.

22           **SECTION 3. AMENDMENT.** Section 39-06-04 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24           **39-06-04. ~~Instruction~~ Instructional permit - Minimum age - Testing.** Any person  
25 who is at least fourteen years of age may ~~apply to the director for~~ obtain an ~~instruction~~  
26 instructional permit if the person passes a test administered by the director. The director may  
27 issue to the applicant an ~~instruction~~ instructional permit which entitles the applicant while having  
28 such permit in the permittee's immediate possession to drive a motor vehicle upon the public  
29 highways for a period of one year when accompanied by a licensed operator who is at least  
30 twenty-two years of age and holds a license corresponding to the vehicle the permittee  
31 operates and has had at least one year of driving experience and who is occupying a seat

1 beside the driver. Persons holding an ~~instruction~~ instructional permit for the operation of a  
2 motorcycle shall operate the motorcycle only during hours when the use of headlights is not  
3 required pursuant to section 39-21-01, and may not carry or transport any passenger. Any  
4 ~~instruction~~ instructional permit may be renewed or a new permit issued for an additional period.  
5 A person who is not yet eighteen years of age is not eligible for a restricted license until that  
6 person has had an ~~instruction~~ instructional permit issued for at least ~~three~~ six months. The  
7 director may recognize an ~~instruction~~ instructional permit issued by another jurisdiction in  
8 computing the ~~three-month~~ six-month instructional period.

9 **SECTION 4.** Six new sections to chapter 39-06 of the North Dakota Century Code are  
10 created and enacted as follows:

11 **39-06-04.1. Graduated driver licensing - Instruction and experience.** To ensure  
12 that a minor has both instruction and experience before obtaining an operator's license, driving  
13 privileges are granted on an incremental basis in accordance with the following process:

- 14 1. An instructional permit.
- 15 2. A restricted license.
- 16 3. An operator's license.

17 An instructional permit issued under section 39-06-04 or a restricted license issued under  
18 section 39-06-04.3 must have a notation that indicates the level of driving privileges granted by  
19 the permit or license.

20 **39-06-04.2. Instructional permit - Restrictions.** An instructional permit authorizes the  
21 permitholder to drive the type or class of motor vehicle specified on the permit only under the  
22 following conditions:

- 23 1. The permitholder must be in possession of the permit while operating the motor  
24 vehicle; and
- 25 2. The permitholder may drive only when a supervising driver is seated in the front  
26 seat of the vehicle when it is in motion. No individual other than the supervising  
27 driver and the permitholder may be in the front seat unless the vehicle has only a  
28 front seat, in which case, the supervising driver must be seated next to the  
29 permitholder. A supervising driver must hold a valid operator's license and be at  
30 least twenty-two years of age.

1           **39-06-04.3. Restricted license - Minimum age.** A minor who is at least fourteen  
2 years of age may obtain a restricted license if the minor:

3           1. Has held an instructional permit issued by the director for at least six months, and  
4 has:

5           a. Passed a course of classroom instruction and a course of behind-the-wheel  
6 instruction as approved by the superintendent of public instruction;

7           b. Successfully completed an equal course at a commercial driving training  
8 school which has been approved by the superintendent of the state highway  
9 patrol pursuant to chapter 39-25; or

10          c. A combination of classes described in subdivisions a and b;

11          2. Has not had a report of a conviction of a traffic offense or admission or adjudication  
12 of a traffic violation during the preceding six months; and

13          3. Has passed a road test administered by the director.

14           **39-06-04.4. Restricted license - Restrictions.** A restricted license authorizes the  
15 licenseholder to drive the type or class of motor vehicle specified on the restricted license only  
16 under the following conditions:

17          1. A restricted licenseholder must be in possession of the license while operating the  
18 motor vehicle;

19          2. A restricted licenseholder may drive without supervision in any of the following  
20 circumstances:

21           a. From six a.m. to twelve midnight; or

22           b. When driving or operating any motor vehicle for the purpose of farming or  
23 ranching, but may carry passengers only during the hours listed in  
24 subdivision a unless accompanied by a supervising driver; and

25          3. A restricted licenseholder may drive at any time when accompanied by a  
26 supervising driver who is seated in the front seat of the vehicle when it is in motion.

27 The supervising driver need not be the only other occupant of the front seat, but  
28 must be seated next to the licenseholder. A supervising driver must hold a valid  
29 motor vehicle operator's license and be at least twenty-two years of age. An  
30 individual holding a restricted driver's license driving a motor vehicle may not carry  
31 more passengers than the vehicle manufacturer's suggested passenger capacity.

1           **39-06-04.5. Full licensure.** A restricted driver's licenseholder who reaches eighteen  
2 years of age may obtain an operator's license if the individual's driving privileges are not  
3 suspended or revoked.

4           **39-06-04.6. Violations.** It is unlawful for the holder of an instructional permit or a  
5 restricted license to drive a motor vehicle in violation of the restrictions that apply to the permit  
6 or license. Failure to comply with a restriction concerning the permit or license or the failure to  
7 comply with the supervising driver requirements constitutes operating a motor vehicle without a  
8 license. If a restricted licenseholder who is under eighteen years of age has a report of a  
9 conviction or admission or adjudication of a violation of any of the liquor laws in conjunction with  
10 the use of a motor vehicle, or has accumulated six or more points on that person's driving  
11 record during any previous twelve consecutive months, the license privilege must be returned to  
12 the permit level following completion of any period of suspension or other penalty so imposed.

13           **SECTION 5. AMENDMENT.** Section 39-06-05 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15           **39-06-05. Restricted ~~instruction~~ instructional permit - When ~~instruction~~**  
16 **instructional permit not required.**

17           1. The director upon receiving proper application may issue a restricted ~~instruction~~  
18 instructional permit effective for a school year or more restricted period to an  
19 applicant who is at least fourteen years of age and enrolled in a commercial driver  
20 training course which includes practice driving and which is approved by the  
21 superintendent of the highway patrol pursuant to chapter 39-25. Such ~~instruction~~  
22 instructional permit entitles the permittee when the permittee has such a permit in  
23 the permittee's immediate possession to operate a motor vehicle only on a  
24 designated highway or within a designated area but only when an approved  
25 instructor is occupying a seat beside the permittee.

26           2. Any student who is at least fourteen years of age and enrolled in behind-the-wheel  
27 driver's training through a high school program approved by the superintendent of  
28 public instruction may operate a motor vehicle, under the supervision of a driver  
29 training instructor certified by the superintendent of public instruction, without a  
30 permit or license to operate a motor vehicle; provided, that the school district  
31 sponsoring the driver's training program has an insurance policy covering any

1 damage which may be done by any such student while operating the vehicle, and  
2 provided further that proof of coverage is filed with the superintendent of public  
3 instruction by the school district's insurance carrier. The insurance coverage must  
4 be in the amount required under section 39-16.1-02.

5 **SECTION 6. AMENDMENT.** Section 39-06-07 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **39-06-07. Application for license or ~~instruction~~ instructional permit.**

- 8 1. Every application for an ~~instruction~~ instructional permit, a restricted license, or for  
9 an operator's license must be made upon a form furnished by the director.  
10 2. Every application must state the full name, date of birth, sex, residence and mailing  
11 address, and briefly describe the applicant. In signing the application the applicant  
12 is deemed to have certified that all information contained on the application is true  
13 and correct. The application must be accompanied by the proper fee. The  
14 application must also provide for the voluntary identification of the applicant as a  
15 donor under the provisions of chapter 23-06.2. The application must contain such  
16 other information as the director may require.  
17 3. Whenever an application is received from a person previously licensed in another  
18 jurisdiction, the director may request a copy of the driver's record from such other  
19 jurisdiction. When received, the driving record becomes a part of the driving record  
20 in this state with the same force and effect as though entered on the driving record  
21 in this state in the original instance.  
22 4. Whenever the director receives a request for a driving record from another  
23 licensing jurisdiction, the record must be forwarded without charge.

24 **SECTION 7. AMENDMENT.** Section 39-06-08 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **39-06-08. Application of minors.** The application of any minor for an ~~instruction~~  
27 instructional permit, a restricted license, or operator's license must be signed and verified  
28 before a person authorized to administer oaths or the director's agent, by the father, mother, or  
29 legal guardian, or, in the event there is no parent or legal guardian, then by another responsible  
30 adult who is willing to assume the obligation imposed under this chapter upon a person signing  
31 the application of a minor.

1           **SECTION 8. AMENDMENT.** Section 39-06-17 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **39-06-17. Restricted permits and licenses - Penalty for violation.**

- 4           1. ~~The~~ In addition to the provisions of sections 39-06-04.1 through 39-06-04.6, the  
5 director, upon issuing an instructional permit, a restricted license, an operator's  
6 license or a temporary restricted operator's license pursuant to section 39-06.1-11,  
7 has authority to impose restrictions suitable to the licensee's driving ability with  
8 respect to the type of or special mechanical control devices required on a motor  
9 vehicle which the permittee or licensee may operate or such other restrictions  
10 applicable to the permittee or licensee as the director may determine to be  
11 appropriate to assure the safe operation of a motor vehicle by the permittee or  
12 licensee.
- 13           2. The director may either issue a special restricted permit or license or may set forth  
14 such restrictions upon the usual permit or license form. The director shall likewise  
15 restrict licenses pursuant to the requirements of section 39-16.1-09.
- 16           3. ~~A~~ Subject to the provisions of sections 39-06-04.1 through 39-06-04.6, a restricted  
17 operator's license, a restricted license, or an instructional permit to operate the  
18 parent's or legal guardian's automobile, or an automobile which is equipped with  
19 dual controls and while accompanied by a qualified instructor, may be issued to  
20 any child, who is at least fourteen years of age, and otherwise qualified, upon the  
21 written recommendation of the parent or legal guardian. ~~No operator's~~ A restricted  
22 license may not be issued until the child, accompanied by the parent or legal  
23 guardian, appears in person and satisfies the director that
- 24           a. ~~The child is at least fourteen years of age.~~
- 25           b. ~~The child is qualified to operate an automobile safely.~~
- 26           c. ~~It is necessary for the child to drive the parent's or guardian's automobile~~  
27 ~~without being accompanied by an adult.~~
- 28           d. ~~The child has completed a course of classroom instruction and a course of~~  
29 ~~behind the wheel instruction acceptable to the director; or, in the alternative,~~  
30 ~~has successfully completed a course at an approved commercial driver~~

1                   ~~training school~~ the requirements for receiving a restricted license have been  
2                   met.

3                   The parent or guardian at all times is responsible for any and all damages growing  
4                   out of the negligent operation of a motor vehicle by any such child. The provisions  
5                   of this subsection do not authorize the child who is at least fourteen years of age  
6                   but less than eighteen years of age to drive a commercial truck, motorbus, or  
7                   taxicab except the holder of a ~~class D~~ restricted license, fourteen or fifteen years of  
8                   ~~age~~, may drive a farm motor vehicle having a gross weight of fifty thousand pounds  
9                   [22679.62 kilograms] when used to transport agricultural products, farm machinery,  
10                  or farm supplies to or from a farm when so operated within one hundred fifty miles  
11                  [241.40 kilometers] of the driver's farm.

12                  4. The director may upon receiving satisfactory evidence of any violation of the  
13                  restrictions of ~~such~~ an instructional permit, a restricted license, or operator's  
14                  license suspend or revoke the same but the permitholder or licensee is entitled to a  
15                  hearing as upon a suspension or revocation under this chapter.

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

29                  **SECTION 9. EFFECTIVE DATE.** This Act becomes effective on July 1, 2000.