

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2149
(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to amend and reenact sections 39-06-13 and 39-06-32, subdivision b of subsection 5 of section 39-06.1-03, subsection 17 of section 39-06.2-02, sections 39-06.2-06 and 39-06.2-16, subsection 3 of section 39-08-13, and section 39-16.1-10 of the North Dakota Century Code, relating to examination of applicants, evidence of actions against drivers received from other jurisdictions, issuance of a temporary certificate after granting a stay pending appeal, definition of gross vehicle weight rating, seasonal exemption from commercial driver's license requirements, time for submission of accident reports by law enforcement, and proof of future financial responsibility by nonresidents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06-13 of the North Dakota Century Code is amended and reenacted as follows:

39-06-13. Examination of applicants. The director shall examine every applicant for an operator's license, except as otherwise provided in this chapter. The examination must include a test of the applicant's eyesight, ability to read and understand highway signs regulating, warning, and directing traffic, and knowledge of the traffic laws of this state. During testing, any written portion of the examination, except writing on illustrations of signs, must be made available to an applicant in any widely practiced language. The director may waive the written portion of the examination for an applicant who has successfully passed a written examination in another state and has a license that is not revoked, suspended, or canceled or in the process of being revoked, suspended, or canceled. An actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle is also required, but may be waived for an applicant who has successfully passed an actual ability test in this or another state. Operators' examinations must be given at locations designated by the director. The director may require any other physical or mental examination.

SECTION 2. AMENDMENT. Section 39-06-32 of the North Dakota Century Code is amended and reenacted as follows:

39-06-32. Authority to suspend licenses. The director may suspend the license of an operator, after hearing, upon proof by a fair preponderance of the evidence, that any of the following apply to the licensee:

1. Commission of an offense for which mandatory revocation of license is required upon conviction.
2. Incompetence to drive a motor vehicle.
3. Unlawful or fraudulent use of an operator's license.
4. Refusal to submit to an implied consent chemical test on an Indian reservation or in another state. For purposes of this subsection, the specific requirements for establishing a refusal used on the Indian reservation or in the other state may not be considered, and photostatic copies of the records of the other jurisdiction's drivers licensing authority are sufficient evidence of the refusal whether or not those copies are certified. The suspension must be for the same length of time as the revocation in section 39-20-04. If the refusal arose out of an arrest or stop of a person while operating a commercial motor vehicle, the

period of suspension must be the same as the period of revocation provided in section 39-06.2-10.

5. Failure, as shown by the certificate of the court, to pay a fine or serve any other sentence as ordered by a court upon conviction for any criminal traffic offense.
6. Failure, as shown by the certificate of the court, to appear in court or post and forfeit bond after signing a promise to appear, if signing is required by law, in violation of section 39-06.1-04, willful violation of a written promise to appear in court, in violation of section 39-07-08, or violation of equivalent ordinances or laws in another jurisdiction. Upon resolution by the operator of the underlying cause for a suspension under this subsection, as shown by the certificate of the court, the director shall record the suspension separately on the driving record. This separate record is not available to the public.
7. An administrative decision on an Indian reservation or in another state that the licensee's privilege to drive on that Indian reservation or in that state is suspended or revoked because of a violation of that Indian reservation's or state's law forbidding motor vehicle operation with an alcohol concentration of at least ten one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, or because of a violation of that Indian reservation's or state's law forbidding the driving or being in actual physical control of a commercial motor vehicle while having an alcohol concentration of at least four one-hundredths of one percent by weight. The specific requirements for establishing the violation on the Indian reservation or in the other state may not be considered and certified copies of the records of the Indian reservation's or other state's drivers licensing authority are sufficient evidence of the violation. The suspension must be for the same duration as the suspension in section 39-20-04.1, if the violation does not involve a commercial motor vehicle. If the violation involves a commercial motor vehicle, the period of suspension must be the same as the period of suspension provided in section 39-06.2-10. For purposes of this section, originals, photostatic copies, or electronic transmissions of the records of the drivers licensing or other authority of the other jurisdiction are sufficient evidence whether or not they are certified copies.
8. Conviction of an offense under this title and it appears from the director's records that the offense contributed to causing an accident which resulted in death or serious personal injury or serious property damage. No suspension may be imposed if the person has been sanctioned for the same offense under section 39-06-31.

SECTION 3. AMENDMENT. Subdivision b of subsection 5 of section 39-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

- b. The appellate court upon application by the appellant may:
 - (1) Order a stay of any action by the licensing authority during pendency of the appeal, but not to exceed a period of one hundred twenty days;
 - (2) Order a stay and that the appellant be issued a temporary restricted driving certificate by the licensing authority to be effective for no more than one hundred twenty days; or
 - (3) Deny the application.

An application for a stay or temporary certificate under this subdivision must be accompanied by a certified copy of the appellant's driving record, for the furnishing of which the licensing authority may charge a fee of ~~two~~ three dollars. Any order granting a stay or a temporary certificate must be forwarded forthwith by the clerk of court to the licensing authority, which immediately shall issue a temporary certificate in accordance with the order in the manner provided by law. A court may not make a

determination on an application under this subdivision without notice to the appropriate prosecuting attorney. A person who violates or exceeds the restrictions contained in any temporary restricted driving certificate issued pursuant to this subdivision is guilty of a traffic violation and must be assessed a fee of twenty dollars.

SECTION 4. AMENDMENT. Subsection 17 of section 39-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

17. "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination (articulated) vehicle, ~~or registered gross weight, whichever is greater.~~ The gross vehicle weight rating of a combination (articulated) vehicle (commonly referred to as the "gross combination weight rating") is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating or actual weight of the towed unit or units.

SECTION 5. AMENDMENT. Section 39-06.2-06 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-06. Commercial driver's license required.

1. Except when driving under a commercial driver's instruction permit and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, no person may drive a commercial motor vehicle on the highways of this state unless the person holds and is in immediate possession of a commercial driver's license with applicable endorsements valid for the vehicle the person is driving. This subsection does not apply:
 - a. When the vehicle being driven is a house car or a vehicle towing a travel trailer being used solely for personal rather than commercial purposes.
 - b. When the vehicle being driven constitutes emergency or firefighting equipment necessary to the preservation of life or property.
2. No person may drive a commercial motor vehicle on the highways of this state while the person's driving privilege is suspended, revoked, or canceled, while subject to a disqualification.
3. The provisions of this chapter are waived, as to farm-to-market operations by farmers, but limited to those operators of a farm vehicle that is:
 - a. Controlled and operated by a farmer.
 - b. Used to transport either agricultural products, farm machines, farm supplies, or both, to or from a farm.
 - c. Not used in the operations of a common or contract carrier.
 - d. Used within one hundred fifty miles [241.40 kilometers] of the person's farm.
4. The provisions of this chapter are waived as to an individual operating a vehicle at the request of and within a political subdivision during an emergency declared by that political subdivision for the removal of snow and ice.
5. Pursuant to 49 CFR, part 383.3, the required knowledge and skills tests may be waived and a restricted commercial driver's license issued to employees of agrichemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders.

SECTION 6. AMENDMENT. Section 39-06.2-16 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-16. Reciprocity.

1. Notwithstanding any other provision of law, a person may drive a commercial motor vehicle in this state if the person has a valid commercial driver's license or commercial driver's license instruction permit issued by any state, or province or territory of Canada, in accordance with the minimum federal standards for the issuance of a commercial motor vehicle driver's license, if the person's license or permit is not suspended, revoked, or canceled, and if the person is not disqualified from driving a commercial motor vehicle.
2. The director must give all out-of-state convictions full faith and credit and treat them for sanctioning purposes under this chapter as if they occurred in this state. ~~Certified copies of the records of the other state's driver's licensing authority are sufficient evidence of the conviction.~~ For purposes of this section, originals, photostatic copies, or electronic transmissions of the records of the driver's licensing or other authority of the other jurisdiction are sufficient evidence whether or not they are certified copies.

SECTION 7. AMENDMENT. Subsection 3 of section 39-08-13 of the North Dakota Century Code is amended and reenacted as follows:

3. Every law enforcement officer who investigates a vehicle accident for which a report must be made as required in this chapter shall forward a report of such accident to the department within ~~five~~ ten days after ~~investigation~~ of the accident.

SECTION 8. AMENDMENT. Section 39-16.1-10 of the North Dakota Century Code is amended and reenacted as follows:

39-16.1-10. Nonresident owner.

1. The nonresident owner of a motor vehicle not registered in this state may give proof of financial responsibility by filing with the director a written or electronically transmitted certificate of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in ~~such~~ the certificate is registered, or if ~~such~~ the nonresident does not own a motor vehicle, then in the state in which the insured resides, provided ~~such~~ the certificate otherwise conforms to the provisions of this chapter, and the director shall accept the same upon condition that ~~said~~ the insurance carrier complies with the following provisions with respect to the policies so certified:
 - a. ~~Said~~ The insurance carrier shall execute a power of attorney authorizing the director to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state.
 - b. ~~Said~~ The insurance carrier shall agree in writing that ~~such~~ the policies ~~shall be deemed to~~ conform with the laws of this state relating to the terms of motor vehicle liability policies issued herein.
2. If any insurance carrier not authorized to transact business in this state, which has qualified to furnish proof of financial responsibility, defaults in any ~~said~~ undertaking or ~~agreements~~ agreement, the director may not thereafter accept as proof any certificate of ~~said~~ the carrier whether ~~therefore~~ filed up to that time or thereafter tendered as proof, so long as ~~such~~ the default continues.
3. Notwithstanding the requirement of subsection 1, the nonresident owner of a motor vehicle not registered in this state may file proof of future financial responsibility of an insurance company or other state-authorized entity providing insurance and authorized or licensed to do business in the nonresident's state of residence as long as such proof of future financial responsibility is in the amounts required by this state.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2149.

Senate Vote: Yeas 44 Nays 0 Absent 3

House Vote: Yeas 93 Nays 0 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,
at _____ o'clock _____ M.

Secretary of State