

**HOUSE BILL NO. 1114**

Introduced by

Transportation Committee

(At the request of the Department of Transportation)

1 A BILL for an Act to amend and reenact section 39-20-03.1 of the North Dakota Century Code,  
2 relating to the action following a test to determine the alcohol content of the blood of a resident  
3 motor vehicle operator.

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

5 **SECTION 1. AMENDMENT.** Section 39-20-03.1 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **39-20-03.1. Action following test result for a resident operator.** If a person submits  
8 to a test under section 39-20-01, 39-20-02, or 39-20-03 and the test shows that person to have  
9 an alcohol concentration of at least ten one-hundredths of one percent by weight or, with  
10 respect to a person under twenty-one years of age, an alcohol concentration of at least two  
11 one-hundredths of one percent by weight at the time of the performance of a chemical test  
12 within two hours after the driving or being in actual physical control of a vehicle, the following  
13 procedures apply:

14 1. The law enforcement officer shall immediately take possession of the person's  
15 operator's license if it is then available and shall immediately issue to that person a  
16 temporary operator's permit if the person then has valid operating privileges,  
17 extending driving privileges for the next twenty-five days, or until earlier terminated  
18 by the decision of a hearing officer under section 39-20-05. The law enforcement  
19 officer shall sign and note the date on the temporary operator's permit. The  
20 temporary operator's permit serves as the director's official notification to the  
21 person of the director's intent to revoke, suspend, or deny driving privileges in this  
22 state.

23 2. If a test administered under section 39-20-01 or 39-20-03 was by saliva or urine  
24 sample or by drawing blood as provided in section 39-20-02 and the person tested

1 is not a resident of an area in which the law enforcement officer has jurisdiction,  
2 the law enforcement officer shall, on receiving the analysis of the saliva, urine, or  
3 blood from the state toxicologist and if the analysis shows that person had an  
4 alcohol concentration of at least ten one-hundredths of one percent by weight or,  
5 with respect to a person under twenty-one years of age, an alcohol concentration  
6 of at least two one-hundredths of one percent by weight, either proceed in  
7 accordance with subsection 1 during that person's reappearance within the officer's  
8 jurisdiction or notify a law enforcement agency having jurisdiction where the person  
9 lives. On that notification, that law enforcement agency shall immediately take  
10 possession of the person's North Dakota operator's license or permit if it is then  
11 available and, within twenty-four hours, forward the license and a copy of the  
12 temporary operator's permit to the law enforcement agency making the arrest or to  
13 the director. The law enforcement agency shall also, on taking possession of the  
14 person's operator's license, issue to that person a temporary operator's permit as  
15 provided in this section, and shall sign and date the permit as provided in  
16 subsection 1. The temporary operator's permit serves as the director's official  
17 notification to the person of the director's intent to revoke, suspend, or deny driving  
18 privileges in this state. At the time of the test, the law enforcement officer may  
19 require the person tested to agree, in writing, to contact the officer within twenty  
20 days of the test by saliva or urine sample or by drawing blood, to be personally  
21 issued a temporary operator's permit or may mail the permit to the person at the  
22 address provided at the time of the test.

23 3. The law enforcement officer, within five days of the issuance of the temporary  
24 operator's permit, shall forward to the director a certified written report in the form  
25 required by the director and the person's operator's license taken under subsection  
26 1 or 2. If the person was issued a temporary operator's permit because of the  
27 results of a test, the report must show that the officer had reasonable grounds to  
28 believe the person had been driving or was in actual physical control of a motor  
29 vehicle while in violation of section 39-08-01, or equivalent ordinance, that the  
30 person was lawfully arrested, that the person was tested for alcohol concentration  
31 under this chapter, and that the results of the test show that the person had an

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