

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED 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
8 officer's jurisdiction or notify a law enforcement agency having jurisdiction where
9 the person lives. On that notification, that law enforcement agency shall
10 immediately take possession of the person's North Dakota operator's license or
11 permit if it is then available and, within twenty-four hours, forward the license and a
12 copy of the temporary operator's permit to the law enforcement agency making the
13 arrest or to the director. The law enforcement agency shall also, on taking
14 possession of the person's operator's license, issue to that person a temporary
15 operator's permit as provided in this section, and shall sign and date the permit as
16 provided in subsection 1. Alternatively, if the test results indicate an alcohol
17 concentration at or above the legal limit, the law enforcement agency making the
18 arrest may mail a temporary operator's permit to the person who submitted to the
19 blood, urine, or saliva test. The third day after the mailing of the temporary
20 operator's permit is considered the date of issuance. Within three days after the
21 person receives the temporary operator's permit, the person shall mail the person's
22 North Dakota operator's license to the law enforcement agency that made the
23 arrest. The temporary operator's permit serves as the director's official notification
24 to the person of the director's intent to revoke, suspend, or deny driving privileges
25 in this state.

26 3. The law enforcement officer, within five days of the issuance of the temporary
27 operator's permit, shall forward to the director a certified written report in the form
28 required by the director and the person's operator's license taken under subsection
29 1 or 2. If the person was issued a temporary operator's permit because of the
30 results of a test, the report must show that the officer had reasonable grounds to
31 believe the person had been driving or was in actual physical control of a motor

1 vehicle while in violation of section 39-08-01, or equivalent ordinance, that the
2 person was lawfully arrested, that the person was tested for alcohol concentration
3 under this chapter, and that the results of the test show that the 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. In addition to the
7 operator's license and report, the law enforcement officer shall forward to the
8 director a certified copy of the operational checklist and test records of a breath
9 test and a copy of the certified copy of the analytical report for a blood, saliva, or
10 urine test for all tests administered at the direction of the officer.