

SENATE BILL NO. 2137

Introduced by

Transportation Committee

(At the request of the Department of Transportation)

1 A BILL for an Act to amend and reenact section 6-09-36, subsection 1 of section 39-16-05, and
2 sections 39-16-06, 39-16-07, 39-16.1-08, 39-16.1-17, and 39-16.1-19 of the North Dakota
3 Century Code, relating to providing a security deposit as proof of financial responsibility for
4 driver's license purposes; and to repeal sections 39-16-09, 39-16-10, and 39-16.1-15 of the
5 North Dakota Century Code, relating to providing a security deposit as proof of financial
6 responsibility for driver's license purposes.

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

8 **SECTION 1. AMENDMENT.** Section 6-09-36 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **6-09-36. Bank of North Dakota - Custodian of securities.** Notwithstanding any other
11 provision of law to the contrary, the Bank of North Dakota shall replace the state treasurer as
12 the custodian of all securities that are required to be deposited with the state except that the
13 state treasurer is the custodian of all securities resulting from the investment of funds by the
14 state treasurer, or except as otherwise required by this section and sections 6-05-04, 6-05-05,
15 6-05-27, 7-07-03, 7-07-04, and 7-07-12, ~~39-16-10, 39-16.1-15, subsection 1 of section~~
16 ~~39-16.1-17, and subsection 1 of section 39-16.1-19.~~

17 **SECTION 2. AMENDMENT.** Subsection 1 of section 39-16-05 of the North Dakota
18 Century Code is amended and reenacted as follows:

19 1. The director, within ninety days after the receipt of a report of a motor vehicle
20 accident within this state for which a driver is required to file a report under section
21 39-08-09, shall suspend the license or nonresident operating privilege of each
22 driver of each vehicle in any manner involved in the accident ~~unless the driver~~
23 ~~deposits security as provided in sections 39-16-09 and 39-16-10 in a sum which is~~
24 ~~sufficient in the judgment of the director to satisfy any judgment or judgments for~~

1 ~~damages resulting from the accident as may be recovered against such driver.~~
2 Notice of suspension and opportunity for hearing must be sent by the director to
3 the driver not less than ten days prior to the effective date of the suspension ~~and~~
4 ~~must state the amount required as security.~~ However, if a driver, either resident or
5 nonresident, involved in the accident purchases an insurance policy with at least
6 the amount of coverage required by this section, and files proof and satisfies
7 financial responsibility requirements thereof with the director, that driver may retain
8 the license or privilege until the driver has accepted responsibility for the accident
9 or agreed to a settlement of claims arising from the accident or until a court of this
10 state has determined that the driver was negligent or responsible for the accident
11 in whole or in part. If the driver is found negligent or responsible for the accident,
12 in whole or in part, the license or privilege must be suspended and will not be
13 returned until the driver complies with this chapter.

14 **SECTION 3. AMENDMENT.** Section 39-16-06 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **39-16-06. When requirements as to security and suspension do not apply.** The
17 requirements as to security and suspension in section 39-16-05 do not apply:

- 18 1. To the driver of a motor vehicle involved in an accident wherein no injury or
19 damage was caused to the person or property of any one other than such driver.
- 20 2. To the driver of a motor vehicle if at the time of the accident the vehicle was
21 stopped, standing, or parked and whether attended or unattended, except that the
22 requirements of this chapter apply in the event the director determines that any
23 such stopping, standing, or parking of the vehicle was illegal or that the vehicle was
24 not equipped as required by the laws of this state and that any such violation
25 contributed to the accident.
- 26 3. If prior to the date that the director would otherwise suspend license or
27 nonresident's operating privilege under section 39-16-05, there must be filed with
28 the director evidence satisfactory to the director that the person ~~who would~~
29 ~~otherwise have to file security~~ has been released from liability or been finally
30 adjudicated not to be liable or has executed a confession of judgment, payable
31 when and in such installments as the parties have agreed to, or has executed a

1 duly acknowledged written agreement providing for the payment of an agreed
2 amount in installments, with respect to all claims for injuries or damages resulting
3 from the accident.

4 **SECTION 4. AMENDMENT.** Section 39-16-07 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **39-16-07. Release from suspension of license.** The license or nonresident's
7 operating privilege suspended as provided in section 39-16-05 must remain so suspended and
8 may not be renewed nor may any such license be issued to such person until:

- 9 1. ~~Such person deposits or there is deposited on the person's behalf the security~~
10 ~~required under section 39-16-05;~~
- 11 2. One year has elapsed following the date of such accident and no evidence
12 satisfactory to the director has been filed with the director that during such period
13 an action for damages arising out of such accident has been instituted; or
- 14 3. 2. Evidence satisfactory to the director has been filed with the director of a release
15 from liability, or a final adjudication of nonliability, or a confession of judgment, or a
16 duly acknowledged written agreement, in accordance with subsection 3 of section
17 39-16-06; provided, in the event there is any default in the payment of any
18 installment under any confession of judgment, then upon notice of such default, the
19 director shall forthwith suspend the license or nonresident's operating privilege of
20 such persons defaulting which may not be restored unless and until the entire
21 amount provided for in said confession of judgment has been paid; and provided
22 further, that in the event there is any default on the payment of any installment
23 under any duly acknowledged written agreement, then, upon notice of such default,
24 the director shall forthwith suspend the license or nonresident's operating privilege
25 of such person defaulting which may not be restored unless and until such person
26 deposits and thereafter maintains security as required under section 39-16-05 in
27 such amount as the director may then determine, or one year has elapsed
28 following the date when such security was required and during such period no
29 action upon such agreement has been instituted in a court in this state.

30 **SECTION 5. AMENDMENT.** Section 39-16.1-08 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **39-16.1-08. Proof of financial responsibility.** Proof of financial responsibility when
2 required under this chapter may be given by filing:

- 3 1. A certificate of insurance as provided in sections 39-16.1-09 and 39-16.1-10; or
4 2. A bond as provided in section 39-16.1-14; ~~or~~
5 ~~3. A certificate of deposit of money or securities as provided in section 39-16.1-15.~~

6 **SECTION 6. AMENDMENT.** Section 39-16.1-17 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **39-16.1-17. Release of bond or deposit on making other proof of responsibility.**

- 9 1. The director shall consent to the cancellation of any bond or certificate of insurance
10 ~~or the director shall direct and the Bank of North Dakota shall return any money or~~
11 ~~securities~~ to the person entitled thereto upon the substitution and acceptance of
12 other adequate proof of financial responsibility pursuant to this chapter.
13 2. The director may not consent to the cancellation of any bond ~~or the return of any~~
14 ~~money or securities~~ in the event any action for damages upon liability covered by
15 such proof is then pending or any judgment upon any such liability is then
16 unsatisfied, or in the event the person who has filed such bond ~~or deposited such~~
17 ~~money or securities~~ has, within one year immediately preceding such request been
18 involved as an operator or owner in any motor vehicle accident resulting in injury or
19 damage to the person or property of others. An affidavit of the applicant as to the
20 nonexistence of such facts, or that the applicant has been released from all of the
21 applicant's liability, or has been finally adjudicated not to be liable, for such injury or
22 damage, is sufficient evidence thereof in the absence of evidence to the contrary in
23 the records of the director.

24 **SECTION 7. AMENDMENT.** Section 39-16.1-19 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **39-16.1-19. Cancellation of bond or return of deposit.**

- 27 1. The director shall upon request consent to the immediate cancellation of any bond
28 or certificate of insurance, ~~or the director shall direct and the Bank of North Dakota~~
29 ~~shall return to the person entitled thereto any money or securities deposited~~
30 provided pursuant to this chapter as proof of financial responsibility, or the director
31 shall waive the requirement of filing proof, in any of the following events:

- 1 a. At any time after one year from the date such proof was required when, during
2 the one-year period preceding the request, the director has not received
3 record of a conviction or a forfeiture of bail which would require the revocation
4 of the license or operating privilege, or both, of the person by or for whom
5 such proof was furnished.
- 6 b. The death of the person on whose behalf such proof was filed or the
7 permanent incapacity of such person to operate a motor vehicle.
- 8 c. The surrender of the person's license to the director by the person who has
9 given proof.
- 10 2. The director may not consent to the cancellation of any bond ~~or the return of any~~
11 ~~money or securities~~ in the event any action for damages upon a liability covered by
12 such proof is then pending or any judgment upon any such liability is then
13 unsatisfied, or in the event the person who has filed such bond ~~or deposited such~~
14 ~~money or securities~~ has, within one year immediately preceding such request,
15 been involved as an operator or owner in any motor vehicle accident resulting in
16 injury or damage to the person or property of others. An affidavit of the applicant
17 as to the nonexistence of such facts, or that the applicant has been released from
18 all of the applicant's liability, or has been finally adjudicated not to be liable, for
19 such injury or damage, is sufficient evidence thereof in the absence of evidence to
20 the contrary in the records of the director.
- 21 3. Whenever any person whose proof has been canceled or returned under
22 subdivision c of subsection 1 applies for a license within a period of one year from
23 the date proof was originally required, the application must be refused. The
24 person's operator's license and driving privileges remain under suspension or
25 revocation until the applicant reestablishes proof for the remainder of the one-year
26 period.

27 **SECTION 8. REPEAL.** Sections 39-16-09, 39-16-10, and 39-16.1-15 of the North
28 Dakota Century Code are repealed.