

HOUSE BILL NO. 1069

Introduced by

Transportation Committee

(At the request of the Department of Transportation)

1 A BILL for an Act to amend and reenact section 39-06-40, paragraph 9 of subdivision a of
2 subsection 3 of section 39-06.1-10, paragraph 10 of subdivision b of subsection 3 of section
3 39-06.1-10, section 39-06.1-11, subsection 9 of section 39-20-07, and section 39-20-14 of the
4 North Dakota Century Code, relating to unlawful use of a license, points entered against a
5 driving record, addiction evaluation for a temporary restricted license, witnesses for
6 interpretation of a chemical test, and an advisory given before a screening test; and to repeal
7 section 39-16.1-20 of the North Dakota Century Code, relating to seizure of an operator's
8 license.

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

10 **SECTION 1. AMENDMENT.** Section 39-06-40 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **39-06-40. Unlawful use of license - Penalty.** It is a class B misdemeanor for any
13 person:

- 14 1. To display or cause or permit to be displayed or have in possession any canceled,
15 revoked, ~~suspended~~, fictitious, or fraudulently altered operator's license, permit, or
16 nondriver photo identification card;
- 17 2. To lend one's operator's license, permit, or nondriver photo identification card to
18 any other person or knowingly permit the use thereof by another;
- 19 3. To display or represent as one's own any operator's license, permit, or nondriver
20 identification card not issued to that person;
- 21 4. To fail or refuse to surrender to the director upon demand any operator's license,
22 permit, or nondriver photo identification card which has been suspended, revoked,
23 or canceled;

1 **SECTION 4. AMENDMENT.** Section 39-06.1-11 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **39-06.1-11. Temporary restricted license - Ignition interlock device.**

- 4 1. Except as provided under subsection 2, if the director has suspended a license
5 under section 39-06.1-10 or has extended a suspension or revocation under
6 section 39-06-43, upon receiving written application from the offender affected, the
7 director may for good cause issue a temporary restricted operator's license valid
8 for the remainder of the suspension period after seven days of the suspension
9 period have passed.
- 10 2. If the director has suspended a license under chapter 39-20, or after a violation of
11 section 39-08-01 or equivalent ordinance, upon written application of the offender
12 the director may issue for good cause a temporary restricted license that takes
13 effect after thirty days of the suspension have been served after a first offense
14 under section 39-08-01 or chapter 39-20. The director may not issue a temporary
15 restricted license to any offender whose operator's license has been revoked under
16 section 39-20-04 or suspended upon a second or subsequent offense under
17 section 39-08-01 or chapter 39-20, except that a temporary restricted license may
18 be issued for good cause if the offender has not committed an offense for a period
19 of two years before the date of the filing of a written application that must be
20 accompanied by a report from an ~~addiction facility~~ appropriate licensed addiction
21 treatment program or if the offender is participating in the drug court program and
22 has not committed an offense for a period of three hundred sixty-five days before
23 the date of the filing of a written application that must be accompanied by a
24 recommendation from the district court. The director may conduct a hearing for the
25 purposes of obtaining information, reports, and evaluations from courts, law
26 enforcement, and citizens to determine the offender's conduct and driving behavior
27 during the prerequisite period of time. The director may also require that an
28 ignition interlock device be installed in the offender's vehicle.
- 29 3. The director may not issue a temporary restricted license for a period of license
30 revocation or suspension imposed under subsection 5 of section 39-06-17; or
31 section 39-06-31, ~~or subsection 3.1 of section 39-06.1-10~~. A temporary restricted

1 license may be issued for suspensions ordered under subsection 7 of section
2 39-06-32 if it could have been issued had the suspension resulted from in-state
3 conduct.

4 4. A restricted license issued under this section is solely for the use of a motor vehicle
5 during the licensee's normal working hours and may contain any other restrictions
6 authorized by section 39-06-17. Violation of a restriction imposed according to this
7 section is deemed a violation of section 39-06-17.

8 **SECTION 5. AMENDMENT.** Subsection 9 of section 39-20-07 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 9. Notwithstanding any statute or rule to the contrary, a defendant who has been
11 found to be indigent by the court in the criminal proceeding at issue may subpoena,
12 without cost to the defendant, the person who conducted the chemical analysis
13 referred to in this section to testify at the trial on the issue of the amount of alcohol,
14 drugs, or a combination thereof in the defendant's blood, breath, saliva, or urine at
15 the time of the alleged act. If the state toxicologist, the director of the state crime
16 laboratory, or any employee of either, is subpoenaed to testify by a defendant who
17 is not indigent and the defendant does not call the witness to establish relevant
18 evidence, the court shall order the defendant to pay costs to the witness as
19 provided in section 31-01-16. An indigent defendant may also subpoena the
20 individual who withdrew the defendant's blood by following the same procedure.

21 **SECTION 6. AMENDMENT.** Section 39-20-14 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **39-20-14. Screening tests.** Any person who operates a motor vehicle upon the public
24 highways of this state is deemed to have given consent to submit to an onsite screening test or
25 tests of the person's breath for the purpose of estimating the alcohol content of the person's
26 blood upon the request of a law enforcement officer who has reason to believe that the person
27 committed a moving traffic violation or was involved in a traffic accident as a driver, and in
28 conjunction with the violation or the accident the officer has, through the officer's observations,
29 formulated an opinion that the person's body contains alcohol. A person may not be required to
30 submit to a screening test or tests of breath while at a hospital as a patient if the medical
31 practitioner in immediate charge of the person's case is not first notified of the proposal to make

1 the requirement, or objects to the test or tests on the ground that such would be prejudicial to
2 the proper care or treatment of the patient. The screening test or tests must be performed by
3 an enforcement officer certified as a chemical test operator by the director of the state crime
4 laboratory or the director's designee and according to methods and with devices approved by
5 the director of the state crime laboratory or the director's designee. The results of such
6 screening test must be used only for determining whether or not a further test shall be given
7 under the provisions of section 39-20-01. The officer shall inform the person that refusal of the
8 person to submit to a screening test will result in a revocation for up to ~~three~~ four years of that
9 person's driving privileges. If such person refuses to submit to such screening test or tests,
10 none may be given, but such refusal is sufficient cause to revoke such person's license or
11 permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided
12 in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available.
13 However, the director must not revoke a person's driving privileges for refusing to submit to a
14 screening test requested under this section if the person provides a sufficient breath, blood, or
15 urine sample for a chemical test requested under section 39-20-01 for the same incident. No
16 provisions of this section may supersede any provisions of chapter 39-20, nor may any
17 provision of chapter 39-20 be construed to supersede this section except as provided herein.
18 For the purposes of this section, "chemical test operator" means a person certified by the
19 director of the state crime laboratory or the director's designee as qualified to perform analysis
20 for alcohol in a person's blood, breath, saliva, or urine.

21 **SECTION 7. REPEAL.** Section 39-16.1-20 of the North Dakota Century Code is
22 repealed.