

Introduced by

Senator Armstrong

1 A BILL for an Act to amend and reenact subsection 1 of section 39-08-01 of the North Dakota  
2 Century Code, relating to multiple charges for driving while under the influence.

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

4 **SECTION 1. AMENDMENT.** Subsection 1 of section 39-08-01 of the North Dakota Century  
5 Code is amended and reenacted as follows:

- 6 1. A person may not drive or be in actual physical control of any vehicle upon a highway  
7 or upon public or private areas to which the public has a right of access for vehicular  
8 use in this state if any of the following apply:
- 9 a. That person has an alcohol concentration of at least eight one-hundredths of one  
10 percent by weight at the time of the performance of a chemical test within two  
11 hours after the driving or being in actual physical control of a vehicle.
  - 12 b. That person is under the influence of intoxicating liquor.
  - 13 c. That person is under the influence of any drug or substance or combination of  
14 drugs or substances to a degree which renders that person incapable of safely  
15 driving.
  - 16 d. That person is under the combined influence of alcohol and any other drugs or  
17 substances to a degree which renders that person incapable of safely driving.
  - 18 e. That individual refuses to submit to any of the following:
    - 19 (1) A chemical test, or tests, of the individual's blood, breath, or urine to  
20 determine the alcohol concentration or presence of other drugs, or  
21 combination thereof, in the individual's blood, breath, or urine, at the  
22 direction of a law enforcement officer under section 39-06.2-10.2 if the  
23 individual is driving or is in actual physical control of a commercial motor  
24 vehicle; or

- 1                   (2) A chemical test, or tests, of the individual's blood, breath, or urine to  
2                   determine the alcohol concentration or presence of other drugs, or  
3                   combination thereof, in the individual's blood, breath, or urine, at the  
4                   direction of a law enforcement officer under section 39-20-01; or  
5                   (3) An onsite screening test, or tests, of the individual's breath for the purpose  
6                   of estimating the alcohol concentration in the individual's breath upon the  
7                   request of a law enforcement officer under section 39-20-14.

8                   The fact that any person charged with violating this section is or has been legally  
9                   entitled to use alcohol or other drugs or substances is not a defense against any  
10                  charge for violating this section, unless a drug which predominately caused  
11                  impairment was used only as directed or cautioned by a practitioner who legally  
12                  prescribed or dispensed the drug to that person. As arising out of the same incident,  
13                  an individual may not be convicted under subdivision e of subsection 1 for refusing to  
14                  submit to testing and be convicted for a violation of subdivision a, b, c, or d of  
15                  subsection 1.