

Sixty-fourth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2352

Introduced by

Senators Oehlke, Rust

1 A BILL for an Act to amend and reenact ~~section~~sections 39-10-47 and 39-10-48 of the North  
2 Dakota Century Code, relating to vehicles obstructing highways; and ~~to amend and reenact~~  
3 ~~section 39-10-48 of the North Dakota Century Code, relating to~~ vehicles illegally parked on  
4 highways.

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

6 **SECTION 1. AMENDMENT.** Section 39-10-47 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **39-10-47. Stopping, standing, or parking outside of business or residence districts.**

- 9 1. ~~Upon any highway outside of a business or residence district no person~~An individual  
10 may not stop, park, or leave standing any vehicle, whether attended or unattended,  
11 upon the paved or main-traveled part of ~~the~~any highway ~~when~~if it is practicable to  
12 stop, park, or so leave ~~such~~the vehicle off ~~such part of said~~the paved or main-traveled  
13 part of the highway, ~~but in every event an~~. There must be an unobstructed width of the  
14 highway of not less than twelve feet [3.66 meters] opposite a standing vehicle ~~must be~~  
15 left for the free passage of other vehicles and a clear view of ~~such~~any stopped  
16 ~~vehicles~~vehicle must be available from a distance of not less than two hundred feet  
17 [60.96 meters] in each direction upon ~~such~~the highway.
- 18 2. ~~This~~Unless the vehicle is blocking the highway or is otherwise endangering public  
19 safety, this section and sections 39-10-49 and 39-10-50 do not apply to the driver of  
20 ~~any~~a vehicle which is disabled while on the paved or main-traveled portion of a  
21 highway ~~in such manner and to such extent that it is impossible to avoid, if~~ stopping  
22 and temporarily leaving ~~such~~the disabled vehicle ~~in such position~~ is unavoidable.

- 1       3. Without the consent of the owner or driver of a vehicle and if a vehicle or any personal  
2       property or cargo spilled from the vehicle is blocking the highway or is otherwise  
3       endangering public safety, a police officer may:
- 4       a. Remove the vehicle or cause the vehicle to be removed from the highway; and  
5       b. Remove or cause to be removed any personal property or cargo that may have  
6       been spilled from the vehicle onto the highway.
- 7       4. If reasonable care is used in the removal process, a police officer and the police  
8       officer's employing agency, the department of transportation or an employee of the  
9       department of transportation, or a political subdivision or employee of a political  
10      subdivision authorized by a police officer is not liable in civil damages for loss or  
11      damage to any vehicle or to any personal property or cargo that may have spilled from  
12      a vehicle that is removed from a highway under this section.
- 13      5. The decision and method used to remove a vehicle or any personal property, or cause  
14      a vehicle or any personal property to be removed, is a discretionary decision under  
15      this section. In the event of a public necessity, a police officer, an employee of the  
16      department of transportation, or an employee of a political subdivision authorized by a  
17      police officer may take an action that may damage a vehicle or property removed  
18      under this section.

19      **SECTION 2. AMENDMENT.** Section 39-10-48 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21      **39-10-48. Officer authorized to remove illegally stopped vehicle.**

- 22      1. ~~Whenever any~~If a police officer finds a vehicle standing upon a highway in violation of  
23      ~~any of the provisions of section 39-10-47, such~~the officer is hereby authorized to move  
24      ~~such~~may remove the vehicle; or require the driver or other person in charge of the  
25      vehicle to move the ~~same~~vehicle to a position off the paved or main-traveled part of  
26      ~~such~~the highway to a place where the vehicle does not block the highway or otherwise  
27      endanger public safety.
- 28      2. ~~Whenever any~~If a police officer finds a vehicle unattended upon any highway, bridge,  
29      ~~or causeway, or in any tunnel where such~~ and the vehicle constitutes an obstruction  
30      ~~to~~may obstruct traffic or otherwise endanger public safety, such~~the~~ officer is hereby

- 1            authorized to provide for the removal of such may have the vehicle moved to the  
2            nearest garage or other place of safety a location where it may be securely held.
- 3            3. ~~Any~~ A police officer is hereby authorized to remove or cause to be removed to the  
4            nearest garage or other place of safety may remove or cause to be removed any  
5            vehicle found upon a highway ~~when~~ and move the vehicle to any location where the  
6            vehicle may be securely held if:
- 7            a. A report has been made ~~that such~~ the vehicle has been stolen or taken without  
8            the consent of its owner;
- 9            b. The ~~person or persons in charge~~ owner or driver of such ~~the~~ vehicle ~~are~~ is unable  
10           to provide for its custody or removal; or
- 11           c. The ~~person~~ individual driving or in control of ~~such~~ the vehicle is arrested for an  
12           alleged offense ~~for which the officer is required by law to take the person arrested~~  
13           ~~before a proper magistrate without unnecessary delay~~ and taken into custody and  
14           another individual is not available to lawfully operate the vehicle.
- 15           4. ~~Whenever any authorized law enforcement~~ If a police officer finds, on state charitable-  
16           ~~or penal institution property or on the state capitol grounds,~~ a vehicle standing,  
17           stopped, or parked in a dangerous location or in violation of any official traffic-control  
18           device prohibiting or restricting the stopping, standing, or parking of any vehicle on  
19           state property, the officer shall place a written warning on the vehicle for the first  
20           offense and ~~thereafter an authorized traffic citation may be issued~~ issue a traffic citation  
21           for a subsequent violation. However, ~~no~~ a traffic citation may not be issued for a  
22           violation of this subsection occurring on the state capitol grounds during a legislative  
23           session.
- 24           5. A police officer and the police officer's employing agency, the department of  
25           transportation or an employee of the department of transportation, or a political  
26           subdivision or employee of a political subdivision authorized by a police officer is not  
27           liable in civil damages for loss or damage to any vehicle removed from a highway or  
28           state property under this section, so long as reasonable care is used in the removal  
29           process.
- 30           6. The decision and method used to remove a vehicle or any personal property, or cause  
31           a vehicle or any personal property to be removed, is a discretionary decision under

1           this section. In the event of a public necessity, a police officer, an employee of the  
2           department of transportation, or an employee of a political subdivision authorized by a  
3           police officer may take an action that may damage a vehicle or property removed  
4           under this section.