

HOUSE BILL NO. 1179

Introduced by

Representatives Roers Jones, Beadle, Boschee, Heinert

Senators J. Lee, Oban, Rust

1 A BILL for an Act to amend and reenact subsection 4 of section 39-06.1-10 and section
2 39-06.1-11 of the North Dakota Century Code, relating to the issuance of temporary restricted
3 licenses to operators participating in the twenty-four seven sobriety program.

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

5 **SECTION 1. AMENDMENT.** Subsection 4 of section 39-06.1-10 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 4. a. If the director is informed by a court that an individual has been convicted of
8 violating section 39-08-01, or equivalent ordinance, the director, subject to the
9 offender's opportunity for hearing under subsection 1, shall suspend that
10 individual's operator's license until the offender furnishes to the director the
11 written statement of the counselor or instructor of an appropriate licensed
12 addiction treatment program that the offender does not require either an
13 education or treatment program or that the offender has physically attended the
14 prescribed program and has complied with the attendance rules. The director
15 shall send notice to the offender informing the offender of the provisions of this
16 subsection.

17 b. If within the seven years preceding the most recent violation of section 39-08-01,
18 or equivalent ordinance, the offender has previously violated section 39-08-01, or
19 equivalent ordinance, at least three times, the driving privileges must be
20 suspended and may be restored only after ~~that individual~~the offender has
21 completed addiction treatment through an appropriate licensed addiction
22 treatment program and has had no alcohol-related or drug-related offense for two
23 consecutive years after completion of treatment. The offender must receive a

1 temporary restricted license during the suspension period, in accordance with
2 section 39-06.1-11.

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

5 **39-06.1-11. Temporary restricted license - Ignition interlock device.**

6 1. Except as provided under subsection 2 or 3, if the director has suspended a license
7 under section 39-06.1-10 or has extended a suspension or revocation under section
8 39-06-43, upon receiving written application from the offender affected, the director
9 may for good cause issue a temporary restricted operator's license valid for the
10 remainder of the suspension period after seven days of the suspension period have
11 passed.

12 2. If the director has suspended a license under chapter 39-20, or after a violation of
13 section 39-08-01 or equivalent ordinance, upon written application of the offender the
14 director may issue a temporary restricted license that takes effect after thirty days of
15 the suspension have been served after a first offense under section 39-08-01 or
16 chapter 39-20, but if the offender is participating in the twenty-four seven sobriety
17 program under chapter 54-12, the director ~~may~~shall issue a temporary restricted
18 license that takes effect after fourteen days of the suspension have been served if the
19 driver is not subject to any unrelated suspension or revocation.

20 3. ~~The director may not issue a temporary restricted license to any offender whose~~
21 ~~operator's license has been revoked under section 39-20-04 or suspended upon a~~
22 ~~second or subsequent offense under section 39-08-01 or chapter 39-20, except that~~
23 a ~~A~~ temporary restricted license ~~may~~must be issued in accordance with subsection 7 if
24 the offender is participating in and compliant with the twenty-four seven sobriety
25 program under chapter 54-12 or if the offender has not committed an offense for a
26 period of one year before the date of the filing of a written application. The application
27 must be accompanied by:

28 a. Proof of financial responsibility and a report from an appropriate licensed
29 addiction treatment program and, if prescribed, proof of compliance with
30 attendance rules in an appropriate licensed addiction treatment program; or

- 1 b. If the offender is participating in the drug court program or other court-ordered
2 treatment or sobriety program, a recommendation from the district court.
- 3 4. For a temporary restricted license under subsection 3, the director may conduct a
4 hearing for the purposes of obtaining information, reports, and evaluations from courts,
5 law enforcement, and citizens to determine the offender's conduct and driving
6 behavior during the prerequisite period of time. The director may require that an
7 ignition interlock device be installed in the offender's vehicle and may require the
8 applicant to submit proof of attendance at a driver training course approved by the
9 director. The director may impose additional conditions as reasonably necessary to
10 ensure compliance.
- 11 5. The director may not issue a temporary restricted license for a period of license
12 revocation or suspension imposed under section 39-06-31. A temporary restricted
13 license may be issued for suspensions ordered under subsection 4 of section
14 39-06-32 if it could have been issued had the suspension resulted from in-state
15 conduct.
- 16 6. a. In addition to any restrictions authorized under section 39-06-17, the director may
17 impose any of the following conditions upon the use of a temporary restricted
18 license issued under this section for the use of a motor vehicle by the offender:
19 (1) To use during the licensee's normal working hours;
20 (2) To use for attendance at an appropriate licensed addiction treatment
21 program or a treatment program ordered by a court; or
22 (3) To use as necessary to prevent the substantial deprivation of the
23 educational, medical, or nutritional needs of the offender or an immediate
24 family member of the offender.
- 25 b. Violation of a restriction imposed according to this section is deemed a violation
26 of section 39-06-17.
- 27 c. This section does not limit the director's authority to cancel a temporary restricted
28 license for good cause.
- 29 7. If an offender has been charged with, or convicted of, a second or subsequent
30 violation of section 39-08-01 or equivalent ordinance, or if the offender's license is
31 subject to suspension under chapter 39-20 and the offender's operator's license is not

1 subject to an unrelated suspension or revocation, the director shall issue a temporary
2 restricted license to the offender upon the restriction the offender participate in the
3 twenty-four seven sobriety program under chapter 54-12. The offender shall submit an
4 application to the director for a temporary restricted license along with submission of
5 proof of financial responsibility and proof of participation in the twenty-four seven
6 sobriety program to receive a temporary restricted license.

7 8. If the director denies a temporary restricted license under subsections 3 or 7, or
8 denies a request for a hearing under subsection 4, the applicant may appeal within
9 thirty days after the date of the decision by filing a notice of appeal in the district court
10 in the county where the applicant resides and by serving the notice of appeal on the
11 director. On appeal the district court shall review the application de novo, and may
12 authorize presentation of additional evidence.