

**HOUSE BILL NO. 1098**

Introduced by

Transportation Committee

(At the request of the Highway Patrol)

1 A BILL for an Act to amend and reenact sections 39-08-05, 39-08-08, 39-08-10, 39-08-11,  
2 39-08-13, 39-08-14, 39-08-15, and 39-08-16 of the North Dakota Century Code, relating to  
3 reporting crashes and obtaining crash reports and data.

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

5 **SECTION 1. AMENDMENT.** Section 39-08-05 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **39-08-05. Accidents~~Crashes~~ involving damage to vehicle - Penalty.**

8 The driver of any vehicle involved in ~~an accident~~ a crash resulting only in ~~damage to a~~  
9 ~~vehicle which is driven or attended by any person~~ property damage to the driver's vehicle or any  
10 other vehicle shall immediately stop ~~such~~ the vehicle at the scene of ~~such accident~~ the crash or  
11 as close ~~thereto~~ to the scene of the crash as possible but shall ~~forthwith~~ return to and ~~in every~~  
12 ~~event shall~~ remain at the scene of ~~such accident~~ the crash until the driver has fulfilled the  
13 requirements of section 39-08-06 and 39-08-09. Every such stop must be made without  
14 obstructing traffic more than is necessary. Any person failing to stop or comply with ~~said~~ the  
15 requirements ~~under such circumstances~~ in this section is guilty of a class B misdemeanor.

16 **SECTION 2. AMENDMENT.** Section 39-08-08 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **39-08-08. Duty upon striking highway fixtures or other property.**

19 The driver of any vehicle involved in ~~an accident~~ a crash resulting only in damage to  
20 highway fixtures or other property shall take reasonable steps to locate and notify the owner or  
21 person in charge of ~~such~~ the property of ~~such fact and of the~~ damage. The driver shall provide  
22 the driver's name and, address, and of the registration number of the vehicle the driver is driving  
23 and shall upon request and if available exhibit the driver's operator's or chauffeur's license and,  
24 The driver shall make report of such accident the crash when and as required in section

1 39-08-09. The driver shall provide the name of the motor vehicle insurance policy carrier and  
2 the policy number of the driver, or if the driver is not the owner of the vehicle, then the motor  
3 vehicle insurance policy carrier and the policy number of the owner of the vehicle, to the owner  
4 or person in charge of the damaged property or to the law enforcement officer investigating the  
5 crash.

6 **SECTION 3. AMENDMENT.** Section 39-08-10 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **39-08-10. Officer to report.**

9 Every law enforcement officer, who in the regular course of duty investigates a motor  
10 vehicle ~~accident~~crash required to be reported as provided in section 39-08-09 either at the time  
11 and at the scene of the ~~accident~~crash or thereafter by interviewing the participants, or  
12 witnesses, shall make and promptly forward to the director a report of the ~~accident~~crash in ~~the~~  
13 format prescribed by the director. The report must contain all the information required therein  
14 unless the information is not available, and must be transmitted electronically to the department  
15 of transportation using the software prescribed by the director.

16 **SECTION 4. AMENDMENT.** Section 39-08-11 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **39-08-11. When driver unable to report.**

- 19 1. ~~An accident~~A crash notice is not required from any person who is physically incapable  
20 of making the report during the period of such incapacity.
- 21 2. Whenever the driver of a vehicle is physically incapable of giving an immediate notice  
22 of ~~an accident~~a crash and there was another occupant in the vehicle at the time of the  
23 ~~accident~~crash capable of doing so, ~~sueh~~the occupant shall make or cause to be given  
24 the notice not given by the driver.
- 25 3. Whenever the driver is physically incapable of giving notice of ~~an accident~~a crash and  
26 ~~sueh~~the driver is not the owner of the vehicle, then the owner of the vehicle involved  
27 shall within five days after learning of the ~~accident~~crash give ~~sueh~~the notice and  
28 insurance information not given by the driver.

29 **SECTION 5. AMENDMENT.** Section 39-08-13 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **39-08-13. AccidentCrash report forms.**

2       1. The director shall prepare and supply to law enforcement agencies, garages, and  
3       other suitable agencies or individuals forms for ~~accident~~crash reports required by law,  
4       appropriate with respect to the purposes to be served. The reports to be made by  
5       investigating officers shall call for sufficiently detailed information to disclose the cause  
6       of a traffic ~~accident~~crash, conditions then existing, persons and vehicles involved, and  
7       whether the requirements for the deposit of security under section 39-16-05 are  
8       applicable.

9       2. Every ~~accident~~crash report required to be made to the director must be made in the  
10      ~~appropriate format or approved~~prescribed by the director and must contain all the  
11      information required therein unless not available.

12     3. Every law enforcement officer who investigates a vehicle ~~accident~~crash for which a  
13      report must be made as required in this chapter shall forward a report of such  
14      ~~accident~~crash to the department within ten days after the ~~accident~~crash.

15     4. The reports required to be forwarded by law enforcement officers and the information  
16      contained in the reports ~~is~~when received by the director are not privileged or  
17      confidential. ~~If, however, the investigating officer expresses an opinion as to fault or~~  
18      ~~responsibility for the accident, the opinion is confidential and not open to public~~  
19      ~~inspection, except as provided in subsection 5.~~Crash reports held by entities other  
20      than the department of transportation are exempt records. In addition, the following  
21      information contained in the report is an exempt record as defined in section  
22      44-04-17.1 unless the requester is a party to the ~~accident~~crash, a party's legal  
23      representative, the insurer of any party to the ~~accident~~crash, the agent of that insurer,  
24      or the legal representative or insurer of an individual involved in defending or  
25      investigating a prior or subsequent claim or ~~accident~~crash involving a party to the  
26      ~~accident~~crash:

- 27      a. Driver identification number of a party in the report;  
28      b. Telephone number of a party in the report;  
29      c. Insurance company name and policy number of a party in the report; and  
30      d. Day and month of birth of a party in the report.

- 1       5.    Upon ~~affirmation by~~request from a party to the ~~accident~~crash, a party's legal  
2       representative, or the insurer of any party to the ~~accident that the investigating officer's~~  
3       ~~opinion is material to a determination of liability~~crash and upon payment of a fee of  
4       ~~five~~up to seven dollars, the director ~~or investigating agency~~ shall release a completed  
5       copy of the ~~investigating officer's opinion~~crash report to the entity requesting the  
6       information. The request must be made on an ~~appropriate~~the form  
7       ~~approved~~prescribed by the director.
- 8       6.    Upon request of any person and upon payment of a fee of ~~two~~up to seven dollars, the  
9       director ~~or the law enforcement agency~~ may furnish to a requester a copy of ~~that~~  
10      ~~portion of~~ an investigating officer's ~~accident~~crash report which does not disclose the  
11      ~~opinion of the reporting officer or~~ contain any exempt information that may not be  
12      disclosed, if the report shows that the ~~accident~~crash is one for which a driver is  
13      required to file a report under section 39-08-09.
- 14     7.    Copies of ~~accident~~crash reports are not admissible as evidence in any action for  
15      damages or criminal proceedings arising out of a motor vehicle ~~accident~~crash.
- 16     8.    The director, without a request under subsection 4 or 5, may send a copy of an  
17      ~~accident~~a crash report to the registered owner of each vehicle involved as indicated by  
18      the report.

19       **SECTION 6. AMENDMENT.** Section 39-08-14 of the North Dakota Century Code is  
20    amended and reenacted as follows:

21       **39-08-14. Public inspection of reports relating to ~~accidents~~crashes.**

- 22     1.    All ~~accident~~crash reports made by persons involved in ~~accidents~~crashes or by garages  
23      shall be without prejudice to the individual so reporting and shall be for the confidential  
24      use of the department or other state agencies having use for the records for  
25      ~~accident~~crash prevention purposes, or for the administration of the laws of this state  
26      relating to the deposit of security and proof of financial responsibility by persons  
27      driving or the owners of motor vehicles, except that the department may disclose the  
28      identity of a person involved in an ~~accident~~a crash when such identity is not otherwise  
29      known or when such person denies the person's presence at such ~~accident~~crash.
- 30     2.    All ~~accident~~crash reports and supplemental information filed in connection with the  
31      administration of the laws of this state relating to the deposit of security or proof of

1 financial responsibility are confidential and not open to general public inspection, nor  
2 may copying of lists of such reports be permitted.

3 3. No written reports or written information mentioned in this section may be used as  
4 evidence in any trial, civil or criminal, arising out of ~~an accident~~a crash, except that the  
5 director shall furnish upon demand of any party to such trial, or upon demand of any  
6 court, a certificate showing that a specified ~~accident~~crash report has or has not been  
7 made to the director in compliance with law.

8 4. The department may disclose exempt information referred to in subsection 4 of section  
9 39-08-13 to any person, on proof of the identity of the person requesting a record and  
10 representation by the requestor that the use of the exempt information will be strictly  
11 limited to one or more of the following:

12 a. For use by any government agency, including any court or law enforcement  
13 agency, in carrying out its functions, or any private person acting on behalf of a  
14 government agency in carrying out its functions.

15 b. For use in connection with matters of motor vehicle or public safety and theft.

16 c. For use in research activities and producing statistical reports.

17 5. Notwithstanding any other provisions of this chapter, any information compiled or  
18 otherwise made available to the department pursuant to this chapter must be  
19 transmitted to each and every duly authorized official or agency of the United States  
20 requesting such.

21 **SECTION 7. AMENDMENT.** Section 39-08-15 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **39-08-15. Director of the department of transportation to tabulate and analyze**  
24 **~~accident~~crash reports.**

25 The director shall tabulate and may analyze all ~~accident~~crash reports and shall publish  
26 annually, or at more frequent intervals, statistical information based thereon as to the number  
27 and circumstances of traffic ~~accidents~~crashes.

28 **SECTION 8. AMENDMENT.** Section 39-08-16 of the North Dakota Century Code is  
29 amended and reenacted as follows:

1       **39-08-16. Any incorporated city may require accidentcrash reports.**

2       Any incorporated city or other municipality may by ordinance require that the driver of a  
3       vehicle involved in an ~~accident~~ crash shall file with a designated city department a report of  
4       such ~~accident~~ crash or a copy of any report herein required to be filed with the director. All such  
5       reports must be for the confidential use of the city department and subject to the provisions of  
6       section 39-08-14.