

Introduced by

Representatives Mock, Christy, Ista, Koppelman, Louser, D. Ruby, Wagner, Warrey

Senators Conley, Meyer

1 A BILL for an Act to create and enact a new section to chapter 39-10.1 of the North Dakota
2 Century Code, relating to multipassenger bicycles; to amend and reenact sections 39-01-01,
3 39-08-01, 39-08-18, and 39-10.1-08 of the North Dakota Century Code, relating to definitions
4 relating to multipassenger bicycles, driving while under the influence of intoxicating liquor, open
5 container prohibition, and exempting multipassenger bicycles from the point system; to provide
6 a penalty; and to declare an emergency.

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

8 **SECTION 1. AMENDMENT.** Section 39-01-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **39-01-01. Definitions.**

11 In this title, unless the context or subject matter otherwise requires:

- 12 1. "Appropriate licensed addiction treatment program" means an addiction treatment
13 program conducted by an addiction facility licensed by the department of health and
14 human services or conducted by a licensed individual specifically trained in addiction
15 treatment.
- 16 2. "Authorized emergency vehicles":
- 17 a. "Class A" authorized emergency vehicles means:
- 18 (1) Vehicles of a governmentally owned fire department.
- 19 (2) Vehicles when operated by or under the control of a police officer having
20 authority to enforce the provisions of this title or by a salaried employee of a
21 municipal police department within the municipality or by a sheriff or deputy
22 sheriff not including special deputy sheriffs, or by the director of the
23 department of corrections and rehabilitation and the director's authorized

1 agents who have successfully completed training in the operation of class A
2 authorized emergency vehicles.

3 (3) Vehicles clearly identifiable as property of the department of corrections and
4 rehabilitation when operated or under the control of the director of the
5 department of corrections and rehabilitation.

6 (4) Ambulances and other vehicles authorized by licensure granted under
7 chapter 23-27.

8 (5) Vehicles operated by or under the control of the director, district deputy
9 director, or a district deputy game warden of the game and fish department.

10 (6) Vehicles owned or leased by the United States and used for law
11 enforcement purposes.

12 (7) Vehicles designated for the use of the adjutant general or assistant adjutant
13 general in cases of emergency.

14 (8) Vehicles operated by or under the control of the director of the parks and
15 recreation department.

16 (9) Vehicles operated by or under the control of a licensed railroad police officer
17 and used for law enforcement purposes.

18 (10) Vehicles operated by or under the control of the state forester.

19 (11) Vehicles operated by or under the control of the bureau of criminal
20 investigation and used for law enforcement purposes.

21 (12) Vehicles operated by or under the department of health and human services
22 in cases of emergencies.

23 (13) Vehicles used or operated by governmental search and rescue personnel
24 while performing emergency operations or duties. As used in this paragraph,
25 "search and rescue" means deployment, coordination, and use of available
26 resources and personnel in locating, relieving the distress, and preserving
27 the life of and removing an individual who is missing, trapped, or lost in the
28 backcountry, remote areas, or waters of the state. The term includes water
29 and dive rescue.

30 b. "Class B" authorized emergency vehicles means wreckers and such other
31 emergency vehicles as are authorized by the local authorities.

- 1 c. "Class C" authorized emergency vehicles means:
- 2 (1) Vehicles used by the state division of homeland security or local division of
- 3 emergency management organizations.
- 4 (2) Vehicles used by volunteer firefighters while performing their assigned
- 5 disaster and emergency responsibilities.
- 6 (3) Vehicles, other than ambulances, used by emergency medical services
- 7 personnel.
- 8 (4) Vehicles used by volunteer search and rescue personnel if performing an
- 9 emergency operation or duty upon the request of a state entity, political
- 10 subdivision, or volunteer fire department. A volunteer organization may
- 11 classify a personal vehicle as a class C emergency vehicle if needed to
- 12 assist in a search and rescue operation in accordance with this paragraph.
- 13 As used in this paragraph, "search and rescue" means deployment,
- 14 coordination, and use of available resources and personnel in locating,
- 15 relieving the distress, and preserving the life of and removing an individual
- 16 who is missing, trapped, or lost in the backcountry, remote areas, or waters
- 17 of the state. The term includes water and dive rescue.
- 18 3. "Bicycle" means every device propelled solely by human power upon which any
- 19 person may ride, having two tandem wheels or two parallel wheels and one forward or
- 20 rearward wheel. The term includes an electric bicycle and a multipassenger bicycle.
- 21 4. "Bus" means every motor vehicle designed for carrying more than ten passengers and
- 22 used for the transportation of persons, and every motor vehicle, other than a taxicab,
- 23 designed and used for the transportation of persons for compensation. Provided,
- 24 every motor vehicle designed for carrying not more than fifteen persons and used for a
- 25 ridesharing arrangement, as defined in section 8-02-07, is not a "bus".
- 26 5. "Business district" means the territory contiguous to a highway when fifty percent or
- 27 more of the frontage thereon for a distance of three hundred feet [91.44 meters] or
- 28 more is occupied by buildings in use for business.
- 29 6. "Camping trailer" means a vehicular portable unit mounted on wheels and constructed
- 30 with collapsible partial side walls that fold for towing by another vehicle and unfold at

1 the campsite to provide temporary living quarters for recreational, camping, or travel
2 use.

3 7. "Cancellation" means a license is annulled and terminated because of an error or
4 defect or because the licensee is no longer entitled to the operator's license, but the
5 cancellation of a license is without prejudice and application for a new license may be
6 made at any time after the cancellation.

7 8. "Child restraint system" means a specifically designed device, built-in seating system,
8 or belt-positioning booster that meets the federal motor vehicle safety standards and is
9 permanently affixed to a motor vehicle, is affixed to the vehicle by a safety belt or
10 universal attachment system, or is combined with a federally compliant safety belt
11 system.

12 9. "Commercial freighting" means the carriage of things other than passengers, for hire,
13 except that such term does not include:
14 a. The carriage of things other than passengers within the limits of the same city;
15 b. Carriage by local dray lines of baggage or goods to or from a railroad station from
16 or to places in such city or in the immediate vicinity thereof, in this state, and not
17 to exceed two miles [3.22 kilometers] from the corporate or recognized limits of
18 said city; or
19 c. Hauling done by farmers for their neighbors in transporting agricultural products
20 to or from market.

21 10. "Commercial passenger transportation" means the carriage of passengers for hire,
22 except that the term does not include:
23 a. The carriage of passengers within the limits of a city.
24 b. The carriage by local buslines of passengers to or from a railroad station from or
25 to places within any city or within two miles [3.22 kilometers] of the limits of the
26 city.
27 c. The carriage of passengers under a ridesharing arrangement, as defined in
28 section 8-02-07.

29 11. "Commissioner" means the director of the department of transportation of this state,
30 acting directly or through authorized agents as provided by section 24-02-01.3.

- 1 12. "Controlled-access highway" means every highway, street, or roadway in respect to
2 which owners or occupants of abutting lands and other persons have no legal right of
3 access to or from the same except at such points only and in such manner as may be
4 determined by the public authority having jurisdiction over such highway, street, or
5 roadway.
- 6 13. "Conviction" means a final order or judgment or conviction by the North Dakota
7 supreme court, any lower court having jurisdiction, a tribal court, or a court in another
8 state if an appeal is not pending and the time for filing a notice of appeal has elapsed.
9 Subject to the filing of an appeal, the term includes:
10 a. An imposed and suspended sentence;
11 b. A deferred imposition of sentence under subsection 4 of section 12.1-32-02; or
12 c. A forfeiture of bail or collateral deposited to secure a defendant's appearance in
13 court and the forfeiture has not been vacated.
- 14 14. "Crosswalk" means that part of a roadway at an intersection included within the
15 connections of the lateral lines of the sidewalks on opposite sides of the highway
16 measured from the curbs, or, in the absence of curbs, from the edges of the
17 traversable roadway; or any portion of a roadway at an intersection or elsewhere
18 distinctly indicated for pedestrian crossing by lines or other markings on the surface.
- 19 15. "Dealer" means every person, partnership, corporation, or limited liability company
20 engaged in the business of buying, selling, or exchanging motor vehicles, or who
21 advertises, or holds out to the public as engaged in the buying, selling, or exchanging
22 of motor vehicles, or who engages in the buying of motor vehicles for resale. Any
23 person, partnership, corporation, limited liability company, or association doing
24 business in several cities or in several locations within a city must be considered a
25 separate dealer in each such location.
- 26 16. "Department" means the department of transportation of this state as provided by
27 section 24-02-01.1.
- 28 17. "Director" means the director of the department of transportation of this state as
29 provided by section 24-02-01.3.
- 30 18. "Driver" means every person who drives or is in actual physical control of a vehicle.

- 1 19. "Electric bicycle" means a bicycle equipped with fully operable pedals, a saddle or
2 seat for the rider, and an electric motor of seven hundred fifty or fewer watts which
3 meets the requirements of one of the following three classes:
- 4 a. A class 1 electric bicycle if the motor provides assistance only when the individual
5 is pedaling and the motor ceases to provide assistance when a speed of twenty
6 miles [32 kilometers] per hour is achieved.
- 7 b. A class 2 electric bicycle if the motor is capable of propelling the bicycle without
8 the individual pedaling and the motor ceases to provide assistance when a speed
9 of twenty miles [32 kilometers] per hour is achieved.
- 10 c. A class 3 electric bicycle if the motor provides assistance only when the individual
11 is pedaling and the motor ceases to provide assistance when a speed of
12 twenty-eight miles [45 kilometers] per hour is achieved.
- 13 20. "Electronic communication device" means an electronic device, including a wireless
14 telephone, personal digital assistant, a portable or mobile computer or other device,
15 and video display equipment. The term does not include a global positioning system or
16 navigation system or a device that is physically or electronically integrated into the
17 motor vehicle.
- 18 21. "Essential parts" means all integral and body parts of a vehicle of a type required to be
19 registered hereunder, the removal, alteration, or substitution of which would tend to
20 conceal the identity of the vehicle or substantially alter its appearance, model, type, or
21 mode of operation and includes all integral parts and body parts, the removal,
22 alteration, or substitution of which will tend to conceal the identity or substantially alter
23 the appearance of the vehicle.
- 24 22. "Explosives" means any chemical compound or mechanical mixture that is commonly
25 used or intended for the purpose of producing an explosion and which contains any
26 oxidizing and combustive units or other ingredients in such proportions, quantities, or
27 packing that an ignition by fire, by friction, by concussion, by percussion, or by
28 detonator of any part of the compound or mixture may cause such a sudden
29 generation of highly heated gases that the resultant gaseous pressures are capable of
30 producing destructive effects on contiguous objects or by destroying life or limb.

- 1 23. "Farm tractor" includes every motor vehicle designed and used primarily as a farm
2 implement for drawing plows, moving machines, and other implements of husbandry.
- 3 24. "Farm trailer" includes those trailers and semitrailers towed by a bona fide resident
4 farmer hauling the farmer's own agricultural, horticultural, dairy, and other farm
5 products if the gross weight, not including the towing vehicle, does not exceed
6 twenty-four thousand pounds [10886.22 kilograms].
- 7 25. "Fifth-wheel travel trailer" means a vehicular unit mounted on wheels, designed to
8 provide temporary living quarters for recreational, camping, or travel use, of such size
9 or weight as not to require a special highway movement permit and designed to be
10 towed by a motorized vehicle that contains a towing mechanism that is mounted
11 above or forward of the tow vehicle's rear axle.
- 12 26. "Flammable liquid" means any liquid which has a flash point of seventy degrees
13 Fahrenheit [21.11 degrees Celsius], or less, as determined by a tagliabue or
14 equivalent closed-cup test device.
- 15 27. "Foreign vehicle" means every motor vehicle which is brought into this state other than
16 in the ordinary course of business by or through a manufacturer or dealer and which
17 has not been registered in this state.
- 18 28. "Gross weight" means the weight of a vehicle without load plus the weight of any load
19 thereon.
- 20 29. "Guest" means and includes a person who accepts a ride in any vehicle without giving
21 compensation therefor.
- 22 30. "Highway" means the entire width between the boundary lines of every way publicly
23 maintained when any part thereof is open to the use of the public for purposes of
24 vehicular travel and of every way privately maintained within a mobile home park,
25 trailer park, or campground containing five or more lots for occupancy by mobile
26 homes, travel trailers, or tents when any part thereof is open for purposes of vehicular
27 travel.
- 28 31. "House car" or "motor home" means a motor vehicle which has been reconstructed or
29 manufactured primarily for private use as a temporary or recreational dwelling and
30 having at least four of the following permanently installed systems:
31 a. Cooking facilities.

- 1 b. Icebox or mechanical refrigerator.
- 2 c. Potable water supply including plumbing and a sink with faucet either
- 3 self-contained or with connections for an external source, or both.
- 4 d. Self-contained toilet or a toilet connected to a plumbing system with connection
- 5 for external water disposal, or both.
- 6 e. Heating or air-conditioning system, or both, separate from the vehicle engine or
- 7 the vehicle engine electrical system.
- 8 f. A 110-115 volt alternating current electrical system separate from the vehicle
- 9 engine electrical system either with its own power supply or with a connection for
- 10 an external source, or both, or a liquefied petroleum system and supply.
- 11 32. "Implement of husbandry" means every vehicle designed and adapted exclusively for
- 12 agricultural, horticultural, or livestock raising operations or for lifting or carrying an
- 13 implement of husbandry and in either case not subject to registration if used upon the
- 14 highway.
- 15 33. "Intersection" means the area embraced within the prolongation or connection of the
- 16 lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two
- 17 highways which join one another at, or approximately at, right angles, or the area
- 18 within which vehicles traveling upon different highways joining at any other angle may
- 19 come in conflict. Where a highway includes two roadways thirty feet [9.14 meters] or
- 20 more apart, then every crossing of each roadway of such divided highway by an
- 21 intersecting highway must be regarded as a separate intersection. In the event such
- 22 intersecting highway also includes two roadways thirty feet [9.14 meters] or more
- 23 apart, then every crossing of two roadways of such highways must be regarded as a
- 24 separate intersection.
- 25 34. "Intoxicating liquor" means and includes any beverage containing alcohol.
- 26 35. "Judgment" means any judgment which has become final by expiration without appeal
- 27 of the time within which an appeal might have been perfected, or by final affirmation
- 28 on appeal, rendered by a court of competent jurisdiction of any state of the United
- 29 States, upon a claim for relief arising out of ownership, maintenance, or use of any
- 30 motor vehicle, for damages, including damages for care and loss of services, because
- 31 of bodily injury to or death of any person, or for damages because of injury to or

1 destruction of property, including the loss of use thereof, or upon a claim for relief on
2 an agreement of settlement for such damages.

3 36. "Legal owner" means a person who holds the legal title to a vehicle.

4 37. "Licensed health care provider" means doctor of medicine, doctor of osteopathy,
5 doctor of chiropractic, optometrist, psychologist, advanced practice registered nurse,
6 or physician assistant who is licensed, certified, or registered in accordance with laws
7 and regulations in this or another state.

8 38. "Lienholder" means a person holding a security interest in a vehicle.

9 39. "Local authorities" includes every county, municipal, and other local board or body
10 having authority to adopt local police regulations under the constitution and laws of
11 this state.

12 40. "Mail" means to deposit mail properly addressed and with postage prepaid with the
13 United States postal service.

14 41. "Manifest injustice" means a specific finding by the court that the imposition of
15 sentence is unreasonably harsh or shocking to the conscience of a reasonable
16 person, with due consideration of the totality of circumstances.

17 42. "Manufactured home" means a structure, transportable in one or more sections, that,
18 in the traveling mode, is eight body feet [2.44 meters] or more in width or forty body
19 feet [12.19 meters] or more in length, or, when erected onsite, is three hundred twenty
20 square feet [29.73 square meters] or more, and which is built on a permanent chassis
21 and designed to be used as a dwelling with or without a permanent foundation when
22 connected to the required utilities, and includes the plumbing, heating, air-conditioning,
23 and electrical systems contained therein. The term includes any structure that meets
24 all of the requirements of this subsection except the size requirements and with
25 respect to whether the manufacturer voluntarily files a certification required by the
26 United States secretary of housing and urban development and complies with the
27 standards established under title 42 of the United States Code.

28 43. "Manufacturer" means any person who manufactures, assembles, or imports and sells
29 new motor vehicles to new motor vehicle dealers for resale in the state; but such term
30 does not include a person who assembles or specially builds interior equipment on a
31 completed vehicle supplied by another manufacturer, distributor, or supplier.

- 1 44. "Metal tires" includes all tires the surface of which in contact with the highway is wholly
2 or partly of metal or other hard, nonresilient material except that this provision does
3 not apply to pneumatic tires.
- 4 45. "Mobile home" means a structure, either single or multisectional, which is built on a
5 permanent chassis, ordinarily designed for human living quarters, either on a
6 temporary or permanent basis, owned or used as a residence or place of business of
7 the owner or occupant, which is either attached to utility services or is twenty-seven
8 feet [8.23 meters] or more in length.
- 9 46. "Modular unit" includes every factory fabricated transportable building unit designed to
10 be incorporated with similar units at a building site into a modular structure to be used
11 for residential, commercial, educational, or industrial purposes.
- 12 47. "Motor vehicle" includes every vehicle that is self-propelled, every vehicle that is
13 propelled by electric power obtained from overhead trolley wires, but not operated
14 upon rails, and, for purposes of motor vehicle registration, title registration, and
15 operator's licenses, motorized bicycles. The term does not include a snowmobile as
16 defined in section 39-24-01 ~~or~~, an electric bicycle, or a multipassenger bicycle.
- 17 48. "Motorcycle" means every motor vehicle having a seat or saddle for the use of the
18 rider and designed to travel on not more than three wheels in contact with the ground,
19 but excluding implements of husbandry. The term does not include an electric bicycle.
- 20 49. "Motorized bicycle" means a vehicle equipped with two or three wheels, foot pedals to
21 permit muscular propulsion or footrests for use by the operator, a power source
22 providing up to a maximum of two brake horsepower having a maximum piston or
23 rotor displacement of 3.05 cubic inches [49.98 milliliters] if a combustion engine is
24 used, which will propel the vehicle, unassisted, at a speed not to exceed thirty miles
25 [48.28 kilometers] per hour on a level road surface, and a power drive system that
26 functions directly or automatically only, not requiring clutching or shifting by the
27 operator after the drive system is engaged, and the vehicle may not have a width
28 greater than thirty-two inches [81.28 centimeters]. The term does not include an
29 electric bicycle.

- 1 50. "Motor-powered recreational vehicle" means a motorcycle, unconventional vehicle, or
2 off-highway vehicle as defined in section 39-29-01, or a snowmobile as defined in
3 section 39-24-01. The term does not include an electric bicycle.
- 4 51. "Multipassenger bicycles" means a vehicle that:
- 5 a. Has fully operative pedals for propulsion entirely by human power;
6 b. Has at least four wheels and is operated in a manner similar to a bicycle;
7 c. Has at least five seats for passengers;
8 d. Has been designed to be occupied by a driver and powered either by passengers
9 providing pedal power to the drive train of the vehicle or by a motor capable of
10 propelling the vehicle in the absence of human power;
11 e. Is used for commercial purposes;
12 f. Is operated by the owner of the vehicle or an employee of the owner of the
13 vehicle;
14 g. Is equipped with a steering wheel that gives the driver exclusive control of the
15 direction of the vehicle;
16 h. Is equipped with at least one taillamp in accordance with section 39-21-04;
17 i. Is equipped with a stop lamp in accordance with subsection 1 of section
18 39-21-19; and
19 j. Is equipped with headlamps in accordance with section 39-27-17.1.
- 20 ~~51-52.~~ "Nonresident" means any person who is not a resident of this state.
- 21 ~~52-53.~~ "Nonresident's operating privilege" means the privilege conferred upon a nonresident
22 by the laws of this state pertaining to the operation by such person of a motor vehicle,
23 or the use of a vehicle owned by such person, in this state.
- 24 ~~53-54.~~ "Official traffic-control devices" means all signs, signals, markings, and devices not
25 inconsistent with this title placed or erected by authority of a public body or official
26 having jurisdiction, for the purpose of regulating, warning, or guiding traffic.
- 27 ~~54-55.~~ "Operator" means every person who drives or is in actual physical control of a motor
28 vehicle upon a highway or who is exercising control over or steering a vehicle being
29 towed by a motor vehicle.

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- 1 ~~55-56.~~ "Operator's license", "driver's license", or "license to operate a motor vehicle" means
2 any operator's or driver's license or any other license or permit to operate a motor
3 vehicle issued under, or granted by, the laws of this state, including:
- 4 a. Any temporary license or instruction permit;
 - 5 b. The privilege of any person to drive a motor vehicle whether such person holds a
6 valid license; or
 - 7 c. Any nonresident's operating privilege as defined in this section.
- 8 ~~56-57.~~ "Owner" means a person, other than a lienholder, having the property in or title to a
9 vehicle. The term includes a person entitled to the use and possession of a vehicle
10 subject to a security interest in another person, but excludes a lessee under a lease
11 not intended as security.
- 12 ~~57-58.~~ "Park", when prohibited, means the standing of a vehicle, whether occupied or not,
13 otherwise than temporarily for the purpose of and while actually engaged in loading or
14 unloading.
- 15 ~~58-59.~~ "Passenger motor vehicle" means every motor vehicle designed principally for the
16 transportation of persons and includes vehicles which utilize a truck chassis, but have
17 a seating capacity for four or more passengers.
- 18 ~~59-60.~~ "Pedestrian" means any person afoot.
- 19 ~~60-61.~~ "Person" includes every natural person, firm, copartnership, association, corporation,
20 or limited liability company.
- 21 ~~61-62.~~ "Pneumatic tires" includes all tires inflated with compressed air.
- 22 ~~62-63.~~ "Pole trailer" means every vehicle without motive power designed to be drawn by
23 another vehicle and attached to the towing vehicle by means of a reach, or pole, or by
24 being boomed or otherwise secured to the towing vehicle, and ordinarily used for
25 transporting long or irregularly shaped loads such as poles, pipes, or structural
26 members capable, generally, of sustaining themselves as beams between the
27 supporting connections.
- 28 ~~63-64.~~ "Police officer" means every officer authorized to direct or regulate traffic or to make
29 arrests for violations of traffic regulations.
- 30 ~~64-65.~~ "Primary source identity document" means documentary evidence of an individual's
31 name, date of birth, and legal presence required in chapters 39-06 and 39-06.2 related

1 to the issuance of permits, licenses, and nondriver photo identification cards, and
2 retained in the driver record.

3 ~~65-66.~~ "Private road or driveway" means every way or place in private ownership and used
4 for vehicular travel by the owner and those having express or implied permission from
5 the owner, but not by other persons.

6 ~~66-67.~~ "Proof of financial responsibility" means proof of ability to respond in damages for
7 liability, on account of accidents occurring after the effective date of the proof, arising
8 out of the ownership, maintenance, or use of a motor vehicle, in the amount of
9 twenty-five thousand dollars because of bodily injury to or death of one person in any
10 one accident, and, subject to the limit for one person, in the amount of fifty thousand
11 dollars because of bodily injury to or death of two or more persons in any one
12 accident, and in the amount of twenty-five thousand dollars because of injury to or
13 destruction of property of others in any one accident.

14 ~~67-68.~~ "Railroad" means a carrier of persons or property upon cars, other than streetcars,
15 operated upon stationary rails.

16 ~~68-69.~~ "Railroad sign or signal" means any sign, signal, or device erected by authority of a
17 public body or official or by a railroad and intended to give notice of the presence of
18 railroad tracks or the approach of a railroad train.

19 ~~69-70.~~ "Reconstructed vehicle" means any vehicle, of a type required to be registered,
20 materially altered from its original construction by the removal, addition, or substitution
21 of new or used essential parts.

22 ~~70-71.~~ "Recreational vehicle" means any motorcycle not qualified for registration, off-highway
23 vehicle, snowmobile, vessel, or personal watercraft. The term does not include an
24 electric bicycle.

25 ~~71-72.~~ "Residence district" means territory contiguous to a highway not comprising a
26 business district, when the frontage on such highway for a distance of three hundred
27 feet [91.44 meters] or more is occupied mainly by dwellings, or by dwellings and
28 buildings in use for business.

29 ~~72-73.~~ "Revocation" means that the operator's license is terminated and may not be renewed
30 or restored, except on application for a new license presented to and acted upon by
31 the director after the expiration of the period of revocation.

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- 1 ~~73-74.~~ "Right of way" means the privilege of the immediate use of a roadway.
- 2 ~~74-75.~~ "Road tractor" means every motor vehicle designed and used for drawing other
3 vehicles and not so constructed as to carry any load thereon either independently or
4 any part of the weight of a vehicle or load so drawn.
- 5 ~~75-76.~~ "Roadway" means that portion of a highway improved, designed, or ordinarily used for
6 vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two
7 or more separate roadways, the term "roadway" as used herein refers to any such
8 roadway separately but not to all such roadways collectively.
- 9 ~~76-77.~~ "Saddle mount" means placing the front wheels of the drawn vehicle upon the bed of
10 the drawing vehicle.
- 11 ~~77-78.~~ "Safety zone" means the area or space officially set aside within a highway for the
12 exclusive use of pedestrians and which is so plainly marked or indicated by proper
13 signs as to be plainly visible at all times while set aside as a safety zone.
- 14 ~~78-79.~~ "Salvage certificate of title" means a document issued by the department for purposes
15 of proof of ownership of a salvage or destroyed vehicle and not acceptable for motor
16 vehicle registration purposes.
- 17 ~~79-80.~~ "Schoolbus" means a motor vehicle designed or used to carry more than ten
18 passengers in addition to the driver, and is used for the purpose of transporting
19 preprimary, primary, or secondary school students from home to school, from school to
20 home, or to and from school-related events. For the purposes of chapter 39-21,
21 "schoolbus" means any motor vehicle that is owned or leased by a public or
22 governmental agency and used to transport preprimary, primary, or secondary school
23 students to or from school or to or from school-related events, or is privately owned
24 and operated for compensation to transport preprimary, primary, or secondary school
25 students to or from school or to or from school-related events. Schoolbus does not
26 include a bus used as a common carrier.
- 27 ~~80-81.~~ "Semitrailer" includes every vehicle of the trailer type so designed and used in
28 conjunction with a truck or truck tractor that some part of its own weight and that of its
29 own load rests upon or is carried by a truck or truck tractor, except that it does not
30 include a "housetrailer" or "mobile home".

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- 1 ~~81-82.~~ "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of
2 a roadway, and the adjacent property lines, intended for use of pedestrians.
- 3 ~~82-83.~~ "Solid tire" includes every tire made of rubber or other resilient material other than a
4 pneumatic tire.
- 5 ~~83-84.~~ "Special mobile equipment" means every vehicle not designed or used primarily for
6 the transportation of persons or property and only incidentally operated or moved over
7 a highway.
- 8 ~~84-85.~~ "Specially constructed vehicle" means any vehicle which was not constructed
9 originally under the distinct name, make, model, or type by a generally recognized
10 manufacturer of vehicles.
- 11 ~~85-86.~~ "Stand" or "standing" means the halting of a vehicle, whether occupied or not,
12 otherwise than temporarily for the purpose of and while actually engaged in receiving
13 or discharging passengers.
- 14 ~~86-87.~~ "State" means a state, territory, or possession of the United States, the District of
15 Columbia, the Commonwealth of Puerto Rico, or a province of the Dominion of
16 Canada.
- 17 ~~87-88.~~ "Stop", when required, means complete cessation from movement.
- 18 ~~88-89.~~ "Stop" or "stopping", when prohibited, means any halting, even momentarily, of a
19 vehicle, whether occupied or not, except when necessary to avoid conflict with other
20 traffic or in compliance with the directions of a police officer or traffic-control sign or
21 signal.
- 22 ~~89-90.~~ "Street" means the entire width between boundary lines of every way publicly
23 maintained when any part thereof is open to the use of the public for purposes of
24 vehicular travel.
- 25 ~~90-91.~~ "Superintendent" means the superintendent of the North Dakota state highway patrol,
26 acting directly or through authorized employees of the superintendent.
- 27 ~~91-92.~~ "Suspension" means that the operator's license is temporarily withdrawn but only
28 during the period of the suspension.
- 29 ~~92-93.~~ "Through highway" means every highway or portion thereof on which vehicular traffic
30 is given preferential right of way, and at the entrances to which vehicular traffic from
31 intersecting highways is required by law to yield right of way to vehicles on such

1 through highway and in obedience to either a stop sign or yield sign, when such signs
2 are erected by law.

3 ~~93.94.~~ "Trackless trolley coach" means every motor vehicle which is propelled by electric
4 power obtained from overhead trolley wires but not operated upon rails.

5 ~~94.95.~~ "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other
6 conveyances either singly or together while using any highway for purposes of travel.

7 ~~95.96.~~ "Traffic-control signal" means any device, whether manually, electrically, or
8 mechanically operated, by which traffic is alternately directed to stop and to proceed.

9 ~~96.97.~~ "Trailer" includes every vehicle without motive power designed to carry property or
10 passengers wholly on its own structure and to be drawn by a motor vehicle, except
11 that it does not include a "housetrailer" or "mobile home", which terms mean a vehicle
12 as defined in this subsection which is designed and intended for use as living or
13 sleeping quarters for people and which is not used for commercial hauling of
14 passengers.

15 ~~97.98.~~ "Travel trailer" means a vehicular unit mounted on wheels, designed to provide
16 temporary living quarters for recreational, camping, or travel use, and of such size or
17 weight as not to require a special highway movement permit when towed by a
18 motorized vehicle.

19 ~~98.99.~~ "Truck" includes every motor vehicle designed, used, or maintained primarily for
20 transportation of property.

21 ~~99.100.~~ "Truck camper" means a portable unit that is constructed to provide temporary living
22 quarters for recreational, camping, or travel use; consists of a roof, floor, and sides;
23 and is designed to be loaded onto and unloaded from the bed of a pickup truck.

24 ~~100.101.~~ "Truck tractor" includes every motor vehicle designed and used primarily for drawing
25 other vehicles and not so constructed as to carry a load other than a part of the weight
26 of the vehicle and load so drawn.

27 ~~101.102.~~ "Urban district" means the territory contiguous to and including any street which is built
28 up with structures devoted to business, industry, or dwelling houses situated at
29 intervals of less than one hundred feet [30.48 meters] for a distance of a quarter of a
30 mile [402.34 meters] or more.

1 ~~402-103.~~ "Used vehicle" means a motor vehicle which has been sold, bargained, exchanged,
2 given away, or the title to which has been transferred to another, by the person who
3 first acquired it from the manufacturer or importer, dealer, or agent of the manufacturer
4 or importer.

5 ~~403-104.~~ "Vehicle" includes every device in, upon, or by which any person or property may be
6 transported or drawn upon a public highway, except devices moved by human power
7 or used exclusively upon stationary rails or tracks. The term does not include an
8 electric bicycle.

9 **SECTION 2. AMENDMENT.** Section 39-08-01 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **39-08-01. Persons under the influence of intoxicating liquor or any other drugs or**
12 **substances not to operate vehicle - Penalty.**

- 13 1. a. A person may not drive or be in actual physical control of any vehicle upon a
14 highway or upon public or private areas to which the public has a right of access
15 for vehicular use in this state if any of the following apply:
- 16 a. (1) That person has an alcohol concentration of at least eight one-hundredths
17 of one percent by weight at the time of the performance of a chemical test
18 within two hours after the driving or being in actual physical control of a
19 vehicle.
- 20 b. (2) That person is under the influence of intoxicating liquor.
- 21 c. (3) That person is under the influence of any drug or substance or combination
22 of drugs or substances to a degree which renders that person incapable of
23 safely driving.
- 24 d. (4) That person is under the combined influence of alcohol and any other drugs
25 or substances to a degree which renders that person incapable of safely
26 driving.
- 27 e. (5) That individual refuses to submit to any of the following:
- 28 (1) (a) A chemical test, or tests, of the individual's blood, breath, or urine to
29 determine the alcohol concentration or presence of other drugs, or
30 combination thereof, in the individual's blood, breath, or urine, at the
31 direction of a law enforcement officer under section 39-06.2-10.2 if the

1 individual is driving or is in actual physical control of a commercial
2 motor vehicle; or

3 (2) (b) A chemical test, or tests, of the individual's blood, breath, or urine to
4 determine the alcohol concentration or presence of other drugs, or
5 combination thereof, in the individual's blood, breath, or urine, at the
6 direction of a law enforcement officer under section 39-20-01.

7 f. ~~Subdivision e~~

8 (6) Paragraph 5 does not apply to an individual unless the individual has been
9 advised of the consequences of refusing a chemical test consistent with the
10 Constitution of the United States and the Constitution of North Dakota.

11 b. The fact any person charged with violating this section is or has been legally
12 entitled to use alcohol or other drugs or substances is not a defense against any
13 charge for violating this section. It is an affirmative defense that a drug was used
14 only as directed or cautioned by a practitioner who legally prescribed or
15 dispensed the drug to that person. If the individual violated ~~subdivisions a, b, c, or~~
16 ~~d of this subsection and subdivision e of this subsection~~ paragraph 1, 2, 3, or 4 of
17 subdivision a of this subsection and paragraph 5 of subdivision a of this
18 subsection and the violations arose from the same incident, for purposes of
19 suspension or revocation of an operator's license, the violations are deemed a
20 single violation and the court shall forward to the department of transportation
21 only the conviction for driving under the influence or actual physical control.

22 c. The driver of a multipassenger bicycle is subject to a violation of this section but
23 a multipassenger bicycle passenger may not be charged with a violation of this
24 section.

25 2. An individual who operates a motor vehicle on a highway or on public or private areas
26 to which the public has a right of access for vehicular use in this state who refuses to
27 submit to a chemical test, or tests, required under section 39-06.2-10.2 or 39-20-01, is
28 guilty of an offense under this section.

29 3. An individual violating this section or equivalent ordinance is guilty of a class B
30 misdemeanor for the first or second offense in a seven-year period, of a class A
31 misdemeanor for a third offense in a seven-year period, and of a class C felony for any

1 fourth or subsequent offense within a fifteen-year period. The minimum penalty for
2 violating this section is as provided in subsection 5. The court shall take judicial notice
3 of the fact that an offense would be a subsequent offense if indicated by the records of
4 the director or may make a subsequent offense finding based on other evidence.

5 4. Upon conviction of a second or subsequent offense within seven years under this
6 section or equivalent ordinance, the court may order the motor vehicle number plates
7 of all of the motor vehicles owned and operated by the offender at the time of the
8 offense to be destroyed by the office of the police officer that made the arrest. The
9 offender shall deliver the number plates to the court without delay at a time certain as
10 ordered by the court following the conviction. The court shall deliver the number plates
11 to the office and notify the department of the order. An offender who does not provide
12 the number plates to the court at the appropriate time is subject to revocation of
13 probation. The court may make an exception to this subsection, on an individual basis,
14 to avoid undue hardship to an individual who is completely dependent on the motor
15 vehicle for the necessities of life, including a family member of the convicted individual
16 and a co-owner of the motor vehicle, or if the offender is participating in the twenty-
17 four seven sobriety program.

18 5. A person convicted of violating this section, or an equivalent ordinance, must be
19 sentenced in accordance with this subsection.

20 a. (1) For a first offense, the sentence must include both a fine of at least five
21 hundred dollars and an order for addiction evaluation by an appropriate
22 licensed addiction treatment program.

23 (2) In addition, for a first offense when the convicted person has an alcohol
24 concentration of at least sixteen one-hundredths of one percent by weight,
25 the offense is an aggravated first offense and the sentence must include a
26 fine of at least seven hundred fifty dollars and at least two days'
27 imprisonment.

28 b. For a second offense within seven years, the sentence must include at least ten
29 days' imprisonment, of which forty-eight hours must be served consecutively; a
30 fine of one thousand five hundred dollars; an order for addiction evaluation by an
31 appropriate licensed addiction treatment program; and at least three hundred

- 1 sixty days' participation in the twenty-four seven sobriety program under chapter
2 54-12 as a mandatory condition of probation.
- 3 c. For a third offense within seven years, the sentence must include at least one
4 hundred twenty days' imprisonment; a fine of at least two thousand dollars; an
5 order for addiction evaluation by an appropriate licensed addiction treatment
6 program; at least three hundred sixty days' supervised probation; and at least
7 three hundred sixty days' participation in the twenty-four seven sobriety program
8 under chapter 54-12 as a mandatory condition of probation.
- 9 d. For a fourth or subsequent offense within fifteen years, the sentence must include
10 at least one year and one day's imprisonment; a fine of at least two thousand
11 dollars; an order for addiction evaluation by an appropriate licensed treatment
12 program; at least two years' supervised probation; and participation in the twenty-
13 four seven sobriety program under chapter 54-12 as a mandatory condition of
14 probation.
- 15 e. The imposition of sentence under this section may not be deferred under
16 subsection 4 of section 12.1-32-02 for an offense subject to this section.
- 17 f. If the offense is subject to subdivision a or b, a municipal court or district court
18 may not suspend a sentence, but may convert each day of a term of
19 imprisonment to ten hours of community service for an offense subject to
20 paragraph 2 of subdivision a. If the offense is subject to subdivision c, the district
21 court may suspend a sentence, except for sixty days' imprisonment, under
22 subsection 3 of section 12.1-32-02 on the condition that the defendant first
23 undergo and complete an evaluation for alcohol and substance abuse treatment
24 and rehabilitation. If the offense is subject to subdivision d, the district court may
25 suspend a sentence, except for one year's imprisonment, under subsection 3 of
26 section 12.1-32-02 on the condition that the defendant first undergo and
27 complete an evaluation for alcohol and substance abuse treatment and
28 rehabilitation. If the defendant is found to be in need of alcohol and substance
29 abuse treatment and rehabilitation, the district court may order the defendant
30 placed under the supervision and management of the department of corrections
31 and rehabilitation and is subject to the conditions of probation under section

1 12.1-32-07. The district court may require the defendant to complete alcohol and
2 substance abuse treatment and rehabilitation under the direction of the drug
3 court program as a condition of probation in accordance with rules adopted by
4 the supreme court. The district court may terminate probation under this section
5 when the defendant completes the drug treatment program. If the district court
6 finds that a defendant has failed to undergo an evaluation or complete treatment
7 or has violated any condition of probation, the district court shall revoke the
8 defendant's probation and shall sentence the defendant in accordance with this
9 subsection.

10 g. For purposes of this section, conviction of an offense under a law or ordinance of
11 another state which is equivalent to this section must be considered a prior
12 offense if such offense was committed within the time limitations specified in this
13 section.

14 h. If the penalty mandated by this section includes imprisonment or placement upon
15 conviction of a violation of this section or equivalent ordinance, and if an
16 addiction evaluation has indicated that the defendant needs treatment, the court
17 may order the defendant to undergo treatment at an appropriate licensed
18 addiction treatment program under subdivision g of subsection 1 of section
19 12.1-32-02 and the time spent by the defendant in the treatment must be credited
20 as a portion of a sentence of imprisonment or placement under this section. A
21 court may not order the department of corrections and rehabilitation to be
22 responsible for the costs of treatment in a private treatment facility.

23 i. If the court sentences an individual to the legal and physical custody of the
24 department of corrections and rehabilitation, the department may place the
25 individual in an alcohol treatment program designated by the department. Upon
26 the individual's successful completion of the alcohol treatment program, the
27 department shall release the individual from imprisonment to begin the
28 court-ordered period of probation. If there is not any court-ordered period of
29 probation, the court may order the individual to serve the remainder of the
30 sentence of imprisonment on supervised probation and the terms and conditions
31 must include participation in the twenty-four seven sobriety program and any

1 terms and conditions of probation previously imposed by the court. Probation
2 under this subsection may include placement in another facility or treatment
3 program. If an individual is placed in another facility or treatment program after
4 release from imprisonment, the remainder of the individual's sentence of
5 imprisonment must be considered time spent in custody. Individuals incarcerated
6 under this section subsequent to a second probation revocation are not eligible
7 for release from imprisonment upon the successful completion of treatment.

8 j. If the individual has participated in the twenty-four seven sobriety program as a
9 condition of pretrial release or for the purpose of receiving a temporary restricted
10 operator's license under section 39-06.1-11, the sentencing court may give credit
11 for the time the individual has already served on the twenty-four seven sobriety
12 program when determining the amount of time the individual must serve on the
13 twenty-four seven sobriety program for the purposes of probation, if that
14 individual has not violated the twenty-four seven sobriety program before
15 sentencing.

16 6. As used in subdivisions b and c of subsection 5, the term "imprisonment" includes
17 house arrest. As a condition of house arrest, a defendant may not consume alcoholic
18 beverages. The house arrest must include a program of electronic home detention and
19 the defendant shall participate in the twenty-four seven sobriety program. The
20 defendant shall defray all costs associated with the electronic home detention. For an
21 offense under subdivision b or c of subsection 5, no more than ninety percent of the
22 sentence may be house arrest.

23 7. As used in this title, participation in the twenty-four seven sobriety program under
24 chapter 54-12 means compliance with sections 54-12-27 through 54-12-31, and
25 requires sobriety breath testing twice per day seven days per week or electronic
26 alcohol monitoring, urine testing, or drug patch testing. The offender is responsible for
27 all twenty-four seven sobriety program fees and the court may not waive the fees. For
28 purposes of this section, the twenty-four seven sobriety program is a condition of
29 probation and a court may not order participation in the program as part of the
30 sentence. If an individual ordered to participate in the twenty-four seven program is not
31 a resident of this state, that individual shall enroll in a twenty-four seven program or an

1 alcohol compliance program if available in that individual's state of residence and shall
2 file proof of such enrollment.

3 **SECTION 3. AMENDMENT.** Section 39-08-18 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **39-08-18. Open container law - Penalty.**

6 1. A person may not drink or consume alcoholic beverages, as defined in section
7 5-01-01, in or on any motor vehicle when the vehicle is upon a public highway or in an
8 area used principally for public parking. A person may not have in that person's
9 possession on that person's person while in or on a private motor vehicle upon a
10 public highway or in an area used principally for public parking, any bottle or
11 receptacle containing alcoholic beverages which has been opened, or the seal broken,
12 or the contents of which have been partially removed. It is unlawful for the owner of
13 any private motor vehicle or the driver, if the owner be not then present in or on the
14 motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon
15 the public highway or in an area used principally for public parking any bottle or
16 receptacle containing such alcoholic beverages which has been opened, or the seal
17 broken, or the contents of which have been partially removed except when such bottle
18 or receptacle is kept in the trunk of the motor vehicle when such vehicle is equipped
19 with a trunk, or kept in some other area of the vehicle not normally occupied by the
20 driver or passengers, if the motor vehicle is not equipped with a trunk. A utility
21 compartment or glove compartment must be deemed to be within the area occupied
22 by the driver and passengers. This subsection does not prohibit the consumption or
23 possession of alcoholic beverages in a house car if the consumption or possession
24 occurs in the area of the house car used as sleeping or living quarters and that area is
25 separated from the driving compartment by a solid partition, door, curtain, or some
26 similar means of separation; however, consumption is not authorized while the house
27 car is in motion. Any person violating this subsection must be assessed a fee of fifty
28 dollars; however, the licensing authority may not record the violation against the
29 person's driving record unless the person was the driver of the motor vehicle at the
30 time that the violation occurred.

1 2. Subsection 1 does not apply to a public conveyance that has been commercially
2 chartered for group use, any passenger for compensation in a for-hire motor vehicle,
3 or a privately owned motor vehicle operated by a person in the course of that person's
4 usual employment transporting passengers at the employer's direction. This
5 subsection does not authorize possession or consumption of an alcoholic beverage by
6 the operator of any motor vehicle described in this subsection while upon a public
7 highway or in an area used principally for public parking.

8 3. The driver of a multipassenger bicycle may not:
9 a. Drink or consume alcoholic beverages, as defined in section 5-01-01, while
10 operating the multipassenger bicycle on any public street, road, path, or highway
11 or while in an area used principally for parking; or
12 b. Have in the driver's possession on the driver's person while operating the
13 multipassenger bicycle on a public street, road, path, or highway or while in an
14 area used principally for parking, any bottle or receptacle containing any alcoholic
15 beverage which has been opened, or the seal broken, or the contents of which
16 have been partially removed.

17 **SECTION 4. AMENDMENT.** Section 39-10.1-08 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **39-10.1-08. Point system not applicable.**

20 Any violation of this chapter, or any moving violation as defined in section 39-06.1-09, or
21 any nonmoving violation as defined in section 39-06.1-08 when committed on a bicycle or an
22 electric bicycle, or a multipassenger bicycle, as defined in section 39-01-01, is not cause for the
23 licensing authority to assess points against the driving record of the violator pursuant to section
24 39-06.1-10. Any other legally authorized penalty for a criminal traffic offense or noncriminal
25 traffic violation is applicable to bicyclists.

26 **SECTION 5.** A new section to chapter 39-10.1 of the North Dakota Century Code is created
27 and enacted as follows:

28 **Multipassenger bicycles.**

29 Unless otherwise allowed by a governmental entity having jurisdiction, a multipassenger
30 bicycle may not be operated on any bicycle path or multi-use path.

31 **SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.