

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1338

Introduced by

Representatives Porter, Dockter, Heinert, Karls

Senators Dever, Larson

1 A BILL for an Act to amend and reenact section 31-13-04 and subsection 10 of section 39-20-07
2 of the North Dakota Century Code, relating to collection of samples for DNA testing and
3 chemical tests to determine alcohol concentration and presence of drugs for individuals
4 operating motor vehicles; and to declare an emergency.

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

6 **SECTION 1. AMENDMENT.** Section 31-13-04 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **31-13-04. DNA testing - Procedure - Immunity.**

- 9 1. Samples of blood or other body fluids for DNA testing may ~~only~~ be obtained in a
10 medically approved manner by a physician, registered nurse, licensed practical nurse,
11 phlebotomist, or medical technologist, ~~or by other qualified personnel approved by the~~
12 ~~laboratory~~, and packaged and submitted in kits approved or provided by the laboratory
13 and in accordance with rules adopted by the laboratory. ~~No civil~~
- 14 2. Samples of saliva for DNA testing may be obtained by a licensed peace officer, and
15 packaged and submitted in kits approved or provided by the laboratory and in
16 accordance with rules adopted by the laboratory. Samples may be collected and
17 submitted by personnel from an agency outside the state with approval of the
18 laboratory.
- 19 3. Civil or criminal liability may not attach to any individual authorized to draw or obtain a
20 sample of blood or other body fluids from any individual for DNA testing, ~~provided if~~ if the
21 sample of blood or other body fluids was drawn or obtained according to sampling
22 techniques approved by the laboratory.

23 **SECTION 2. AMENDMENT.** Subsection 10 of section 39-20-07 of the North Dakota
24 Century Code is amended and reenacted as follows:

1 10. A law enforcement officer who has witnessed an individual who is medically qualified
2 to draw the blood sample for testing may sign a verified statement that the law
3 enforcement officer witnessed the individual draw the blood sample and the individual
4 followed the approved methods of the ~~state toxicologist~~director of the state crime
5 laboratory or the director's designee. Further foundation is not required to establish
6 that the blood sample was drawn according to the approved method of the ~~state-~~
7 ~~toxicologist~~director of the state crime laboratory or the director's designee.

8 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.