

# MOTOR VEHICLES

## CHAPTER 442

SENATE BILL NO. 2132  
(Committee on Transportation)  
(At the request of the Motor Vehicle Department)

### HOUSE CAR DEFINITION

AN ACT to amend and reenact subsection 25 of section 39-01-01 of the North Dakota Century Code, relating to the definition of house car.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 25 of section 39-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25. "House car" means a motor vehicle which has been reconstructed or manufactured primarily for private use as a temporary or recreational dwelling and having at least four of the following permanently installed systems:
- a. Cooking facilities.
  - b. Icebox or mechanical refrigerator.
  - c. Potable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both.
  - d. Self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, or both.
  - e. Heating or air conditioning system or both, separate from the vehicle engine or the vehicle engine electrical system.
  - f. A 110-115 volt alternating current electrical system separate from the vehicle engine electrical system either with its own power supply or with a connection for an external source, or both or a liquefied petroleum system and supply.

Approved March 14, 1989  
Filed March 15, 1989

## CHAPTER 443

SENATE BILL NO. 2143  
(Committee on Transportation)  
(At the request of the Motor Vehicle Department)

### RECIPROCAL MOBILITY IMPAIRED PARKING

AN ACT to create and enact a new subsection to section 39-01-15 of the North Dakota Century Code, relating to reciprocal use of mobility impaired parking privileges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. A new subsection to section 39-01-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Any motor vehicle licensed in another state which displays a special license plate or other special authorized vehicle designation issued by the licensing authority of another state for vehicles used in the transportation of mobility impaired persons must be accorded the same privileges provided in this section for similar vehicles licensed in this state if the laws of the other state provide the same privileges to North Dakota motor vehicles displaying the special identifying certificate or insignia authorized in this section.

Approved March 14, 1989  
Filed March 15, 1989

\* NOTE: Section 39-01-15 was also affected by sections 2 and 6 of Senate Bill No. 2335, chapter 319.

## CHAPTER 444

SENATE BILL NO. 2126  
(Committee on Transportation)  
(At the request of the Motor Vehicle Department)

### VEHICLE DEALER BOND CANCELLATION

AN ACT to create and enact a new section to chapter 39-02 of the North Dakota Century Code, relating to cancellation of vehicle dealer bonds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

Dealer bond cancellation - Reinstatement - Revocation of license. Any dealer required to be bonded by the provisions of title 39 whose bond is canceled by the surety company shall file a new bond with the department before the effective date of the cancellation. The effective date of a bond cancellation must be thirty days after notification by certified mail to the department from the surety company. Any dealer failing to maintain a current surety bond with the department shall return the dealer's license and dealer's plates to the department on or before the effective date of the cancellation. Failure to return the dealer's license or dealer's plates results in automatic revocation by operation of law. The department may order the superintendent to take possession of any dealer's license or dealer's plates not returned to the department as required in this section. The department shall reinstate the dealer's license and dealer's plates if a new bond is received within thirty days of the revocation.

Approved March 17, 1989  
Filed March 17, 1989

## CHAPTER 445

SENATE BILL NO. 2068  
(Legislative Council)  
(Interim Committee on Public Employees Retirement Programs)

## RETIREMENT CONTRIBUTIONS AND RETIREE HEALTH BENEFITS

AN ACT to create and enact two new sections to chapter 54-52.1 of the North Dakota Century Code, relating to the establishment of a retiree health benefits fund for the purpose of prefunding group medical and hospital benefits coverage under the uniform group insurance program for certain retired public employees; to amend and reenact sections 39-03.1-10, 54-52-06, and 54-52-06.1, and subsection 3 of section 54-52.1-03 of the North Dakota Century Code, relating to contributions under the highway patrolmen's retirement system and the public employees retirement system and the continuation of benefits under the uniform group insurance program upon termination or retirement; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-03.1-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03.1-10. Contributions by the state of North Dakota. The state of ~~North Dakota~~ shall contribute to the fund a sum equal to ~~seventeen~~ sixteen and seventy-hundredths percent of the monthly salary or wage of a participating member. If the member's contribution is paid by the state under subsection 2 of section 39-03.1-09, the state shall contribute, in addition, an amount equal to the required member's contribution.

SECTION 2. AMENDMENT. Section 54-52-06 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-06. Employer's contribution to retirement plan. Each governmental unit shall contribute an amount equal to ~~five~~ four and twelve-hundredths percent of the monthly salary or wage of a participating member. If the employee's contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required employee's contribution. Each governmental unit shall pay monthly such contribution into the retirement fund from its funds appropriated for payroll and salary or any other funds available for such purposes. Any governmental unit failing to pay such contributions monthly ~~shall be~~ is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after ~~such~~ the payment became due. The board shall report to each session of the legislative assembly, or such committee as may be designated by the legislative council to hear such report in the interim between legislative sessions, the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

SECTION 3. AMENDMENT. Section 54-52-06.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-06.1. Contribution by supreme and district court judges - Employer contribution. Each judge of the supreme or district court who is a member of the public employees retirement system ~~shall~~ must be assessed and required to pay monthly five percent of the judge's monthly salary. The assessment must be deducted and retained out of the judge's salary in equal monthly installments. ~~Effective July 1, 1985, the~~ The state shall contribute an amount equal to ~~fifteen~~ fifteen ~~fourteen~~ and fifty-two one-hundredths percent of the monthly salary of a supreme or district court judge who is a participating member of the system, which matching contribution ~~shall~~ must be paid from its funds appropriated for salary, or from any other funds available for such purposes. If the judge's contribution is paid by the state under subsection 3 of section 54-52-05, the state shall contribute, in addition, an amount equal to the required judge's contribution.

\* SECTION 4. AMENDMENT. Subsection 3 of section 54-52.1-03 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Upon the termination of eligible employment of a member of the legislative assembly, or upon the retirement of an eligible employee who is entitled to a retirement allowance from a department, board, or agency, or upon the termination of employment of an eligible employee not of retirement age who, upon retirement, will receive a deferred retirement allowance from a department, board, or agency, that employee or that employee's surviving spouse may continue as a member of the uniform group under this chapter. ~~The Subject to section 5 of this Act, the department, board, or agency may not make a contribution for this coverage, and each eligible employee or the surviving spouse of that employee shall pay directly to the board the premiums in effect for the coverage then being provided.~~

SECTION 5. Two new sections to chapter 54-52.1 of the North Dakota Century Code are hereby created and enacted to read as follows:

Retiree health benefits fund - Appropriation.

1. The board shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding hospital benefits coverage and medical benefits coverage under the uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this Act. The state shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries and wages of all participating members of the highway patrolmen's retirement system under chapter 39-03.1, and one percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries or wages of all participating members of the public

\* NOTE: Section 54-52.1-03 was also amended by section 2 of Senate Bill No. 2412, chapter 675.

employees retirement system under chapter 54-52. The board, as trustee of the fund and in exclusive control of its administration, shall:

- a. Provide for the investment and disbursement of moneys of the retiree health benefits fund and administrative expenditures in the same manner as moneys of the public employees retirement system are invested, disbursed, or expended under subsection 6 of section 54-52-04.
  - b. Adopt rules necessary for the proper administration of the retiree health benefits fund, including enrollment procedures.
2. All moneys deposited in the fund established under subsection 1, not otherwise appropriated, are hereby appropriated to the board for the purpose of making investments for the fund and to make contributions toward hospital and medical benefits coverage for eligible retired employees or surviving spouses of eligible retired employees and their dependents under the uniform group insurance program.

Eligibility for retiree health benefits - Fixed contribution and reduction factors.

1. The following persons are entitled to receive credit for hospital and medical benefits coverage under subsection 2:
  - a. A member of the highway patrolmen's retirement system or the public employees retirement system receiving retirement benefits under section 39-03.1-11 or 54-52-17.
  - b. The surviving spouse of a member of the highway patrolmen's retirement system or the public employees retirement system who was eligible to receive, or was receiving, retirement benefits under section 39-03.1-11 or 54-52-17.
2. The board shall calculate the allowable monthly credit toward hospital and medical benefits coverage for a person eligible under subsection 1 in an amount equal to three dollars multiplied by the member's or deceased member's number of years of credited service under the highway patrolmen's retirement system or the public employees retirement system. For a member of the public employees retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of sixty-four. For a member of the highway patrolmen's retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of fifty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of fifty-four.

3. The board shall apply the credit allowable under subsection 2 to the payment of monthly premiums required of each person eligible under subsection 1 for hospital benefits coverage and medical benefits coverage under the uniform group insurance program. However, if the allowable credit exceeds the monthly premium in effect for selected coverage, that amount of the credit which exceeds the premium is forfeited and may not be used for any other purpose.

Approved March 17, 1989  
Filed March 17, 1989

## CHAPTER 446

HOUSE BILL NO. 1099  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

### HIGHWAY PATROLMEN'S RETIREMENT DISABILITY BENEFITS

AN ACT to amend and reenact subsections 3 and 4 of section 39-03.1-11 of the North Dakota Century Code, relating to disability retirement benefits under the highway patrolmen's retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Subsections 3 and 4 of section 39-03.1-11 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. Retirement dates are as follows:
  - a. Early retirement date is the first day of the month next following the month in which the contributor attains the age of fifty years and has completed at least ten years of eligible employment.
  - b. Normal retirement date is the first day of the month next following the month in which the contributor attains the age of fifty-five years and has completed at least ten years of eligible employment.
  - c. Postponed retirement date is the first day of the month next following the month in which the contributor attains the age of sixty years.
  - d. Disability retirement date is the first day of the month after a contributor becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of employment.
4. The board shall calculate retirement benefits as follows:
  - a. Normal retirement benefits for all retirees reaching the normal retirement date are payable monthly, and are:
    - (1) The first twenty-five years of credited service multiplied by two and one-half percent of final average salary.
    - (2) All years in excess of twenty-five years of credited service multiplied by one and one-half percent of final average salary.

\* NOTE: Subsection 4 of section 39-03.1-11 was also amended by section 1 of Senate Bill No. 2185, chapter 447.



- b. Early retirement benefits are normal retirement benefits accrued to the date of termination of employment, but actuarially reduced to account for benefit payments beginning before the normal retirement date.
- c. Postponed retirement benefits, for all retirees reaching the postponed retirement date, are calculated in the same manner as normal retirement benefits.
- d. Disability retirement benefits are seventy percent of the contributor's final average salary, reduced by any workers' compensation benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.

Approved March 9, 1989  
Filed March 9, 1989

## CHAPTER 447

SENATE BILL NO. 2185  
 (Committee on State and Federal Government)  
 (At the request of the Public Employees Retirement System)

### HIGHWAY PATROLMEN'S RETIREMENT BENEFITS

AN ACT to amend and reenact subsection 4 of section 39-03.1-11 and section 39-03.1-27 of the North Dakota Century Code, relating to computation of retirement benefits and amendments to existing rights under the highway patrolmen's retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Subsection 4 of section 39-03.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The board shall calculate retirement benefits as follows:

- a. Normal retirement benefits for all ~~retirees~~ contributors reaching the normal retirement date are payable monthly, and are:
  - (1) The first twenty-five years of credited service multiplied by two and ~~one-half~~ three-fourths percent of final average salary.
  - (2) All years in excess of twenty-five years of credited service multiplied by one and ~~one-half~~ three-fourths percent of final average salary.
  - (3) All contributors who retired before July 1, 1989, are entitled to receive benefits equal to two and three-fourths percent of final average salary multiplied by the first twenty-five years of credited service, plus one and three-fourths percent of final average salary multiplied by credited service in excess of twenty-five years.
- b. Early retirement benefits are normal retirement benefits accrued to the date of termination of employment, but actuarially reduced to account for benefit payments beginning before the normal retirement date.
- c. Postponed retirement benefits, for all ~~retirees~~ contributors reaching the postponed retirement date, are calculated in the same manner as normal retirement benefits.

SECTION 2. AMENDMENT. Section 39-03.1-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* NOTE: Subsection 4 of section 39-03.1-11 was also amended by section 1 of House Bill No. 1099, chapter 446.

39-03.1-27. Legislative intent —Effect of amendments upon existing rights.

1. The legislative assembly in recognition of the value of good employer-employee relationships and the need to recruit and retain qualified highway patrolmen in this state, hereby declares its intent that the state should provide the comparable contribution for retirement of highway patrolmen's retirement system members as it provides for other state employees. It is the further intent of the legislative assembly that because of the increase in state contributions to the North Dakota highway patrolmen's retirement system, the members of such system shall not obligate the state to additional payments for federal social security benefits for such members.
2. Nothing contained in this chapter or in any amendment thereto or any amendment of any section thereof which has been or shall be adopted from time to time, unless the amendment expressly states otherwise, may reduce, modify, or enlarge any rights, privileges, or benefits established prior to the effective date of such amendment. All retirement payments, disability payments, widow's benefits, children's benefits, severance payments, and death payments which have become fixed and determined prior to the effective date of any such amendment or of this section must remain unchanged unless the amendment expressly states otherwise; provided, that all existing pensioners, widows, and dependent children who are receiving payments from the fund as of July 1, 1971, or who have been granted a benefit by the highway patrolmen's retirement board, shall be entitled to receive, from and after that date, an increase of ten percent in such payments, or benefits.

Approved March 17, 1989  
Filed March 17, 1989

## CHAPTER 448

HOUSE BILL NO. 1086  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

### HIGHWAY PATROLMEN'S RETIREMENT SPOUSE BENEFITS

AN ACT to amend and reenact subsection 6 of section 39-03.1-11 of the North Dakota Century Code, relating to retirement benefits payable to a surviving spouse under the highway patrolmen's retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 39-03.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. If before retiring a contributor dies after completing ten years of eligible employment, the board shall pay the contributor's accumulated deductions to any beneficiary designated by the contributor with the written consent of the contributor's spouse, if any. If the contributor has not designated any beneficiary under this section, the surviving spouse of the contributor, after reaching the age of fifty-five, is entitled to a monthly retirement benefit of fifty percent of the deceased contributor's accrued normal retirement benefits until the spouse dies may select one of the following optional forms of payment:
  - a. A lump sum payment of the contributor's accumulated deductions as of the date of death.
  - b. Payments for sixty months as calculated for the deceased contributor as if the contributor was age fifty-five at the date of death.
  - c. Payment of a monthly retirement benefit equal to fifty percent of the deceased contributor's accrued normal retirement benefits until the spouse dies.

Approved March 9, 1989  
Filed March 9, 1989

## CHAPTER 449

HOUSE BILL NO. 1091  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

## HIGHWAY PATROLMEN'S RETIREMENT BENEFIT OPTIONS

AN ACT to amend and reenact subsection 9 of section 39-03.1-11 of the North Dakota Century Code, relating to optional forms of retirement benefits under the highway patrolmen's retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 9 of section 39-03.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. The board shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
  - a. A lifetime monthly pension; and Joint and survivor, with fifty percent or one hundred percent options.
  - b. A joint survivor benefit payable monthly of fifty percent of the deceased contributor's accrued normal retirement benefits payable until the joint survivor dies Life with five-year or ten-year certain options.

Unless a contributor requests that the contributor receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a lifetime monthly pension.

Approved March 9, 1989  
Filed March 9, 1989

## CHAPTER 450

HOUSE BILL NO. 1531  
(Representative Solberg)  
(Senator Richard)

### MOTORCYCLE PERSONALIZED PLATES

AN ACT to amend and reenact section 39-04-10.3 of the North Dakota Century Code, relating to personalized plates for motorcycles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-10.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-10.3. Personalized plates. The department may, in its discretion, provide special plates marked with initials, letters, or combinations of numerals and letters at the request of the registrant, upon application therefor and upon payment of an additional fee of twenty-five dollars per registration period. The department shall make the special plates authorized by this section available for motorcycles. The special plates must contain not more than six letters or a combination of not more than six numerals and letters. In the event of sale or transfer of the vehicle, the special plates may remain with the vehicle or they may be surrendered and, upon application, a regular license plate must be issued without additional cost, or upon payment of the applicable registration fee, the special plates must be transferred to the replacement motor vehicle.

Approved March 22, 1989  
Filed March 23, 1989

## CHAPTER 451

SENATE BILL NO. 2142  
(Committee on Transportation)  
(At the request of the Motor Vehicle Department)

### USE OF ANTIQUE MOTOR VEHICLE

AN ACT to amend and reenact subsection 1 of section 39-04-10.4 of the North Dakota Century Code, relating to registration of antique motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-04-10.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any motor vehicle which is at least forty years old may be permanently licensed by the department upon the payment of a registration fee of ten dollars. The department shall design and issue a distinctive number plate for this purpose. In lieu of the distinctive number plate, the owner of the motor vehicle may, at the discretion of the registrar, display on the motor vehicle a number plate from the year in which the motor vehicle was manufactured. The number plate from the year of manufacture may not be used in lieu of a distinctive number plate when it would create a duplication of a number in the recordkeeping system of the department. A number plate from the year of manufacture must be legible and must be restored to the satisfaction of the department. Notwithstanding section 39-04-11, only one number plate needs to be displayed on a motor vehicle licensed under this subsection. Motor vehicles registered under the provisions of this section may not be used in the routine functions of a business or farming operation.

Approved March 14, 1989  
Filed March 15, 1989

## CHAPTER 452

SENATE BILL NO. 2425  
(Senators Keller, Wogsland)  
(Representatives Lindgren, Nowatzki)

### COLLECTOR'S MOTOR VEHICLE FEES

AN ACT to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to registration fees of motor vehicles owned by collectors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Registration of motor vehicles owned by collectors. A person who owns a motor vehicle that is at least twenty-five years old but that is not eligible for registration under section 39-04-10.4 may register that motor vehicle as a collector's motor vehicle. The motor vehicle is eligible for such registration if it is owned and operated solely as a collector's item and if the owner owns another motor vehicle the owner uses for general transportation. A motor vehicle qualifies as a collector's item under this section only if it is operated on public streets and highways for the purpose of driving the vehicle to and from active entry and participation in parades, car shows, car rallies, other public gatherings held for the purpose of displaying or selling the vehicle, and to and from service or storage facilities. An applicant for registration of a vehicle as a collector's motor vehicle shall file an affidavit with the registrar that states the owner's name and address, the make, year, and the manufacturer's identification number of the motor vehicle, and a statement that the motor vehicle is owned and operated solely as a collector's item and not for general transportation purposes. If the registrar is satisfied that the affidavit is true and correct, the registrar shall register the motor vehicle as a collector's motor vehicle on the payment of a registration fee of sixty dollars. The registration is valid as long as the collector's motor vehicle is owned by the person who applied for the registration under this section. The registrar shall design and issue distinctive number plates for collector's motor vehicles registered under this section. A person violating this section or a department rule regarding this section forfeits the right to the registration provided in this section and any registration fees that have been paid.

Approved March 22, 1989  
Filed March 23, 1989



## CHAPTER 453

SENATE BILL NO. 2140  
(Committee on Transportation)  
(At the request of the Motor Vehicle Department)

### MOTOR VEHICLE DUPLICATE TITLE AND PLATE TRANSFER

AN ACT to amend and reenact section 39-04-13, subsection 2 of section 39-04-36, and section 39-05-09.1 of the North Dakota Century Code, relating to duplicate vehicle registration and title and to the fee for transfer of license plates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-13. Duplicates to be obtained of number plate, tab, sticker, or registration card if lost, mutilated, or illegible - Fee. If any number plate, tab, sticker, or registration card issued under the provisions of this chapter is lost, mutilated, or becomes illegible, the person who is entitled thereto shall make immediate application for and obtain a duplicate or substitute upon furnishing information of such fact satisfactory to the department and upon payment of the cost of issuing the duplicate item, not to exceed the sum of five dollars for each duplicate number plate, tab, sticker, or registration card issued. The department may issue a duplicate number plate, tab, sticker, or registration card at no cost to the owner when satisfied the vehicle owner did not receive the original number plate, tab, sticker, or registration card which was issued.

SECTION 2. AMENDMENT. Subsection 2 of section 39-04-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. A registration plate currently assigned to a vehicle may be transferred to a similar replacement vehicle at the owner's request, upon payment of the appropriate registration fees applicable to the replacement vehicle and a ~~three~~ five dollar transfer fee. A new registration plate must be assigned to the vehicle being replaced.

SECTION 3. AMENDMENT. Section 39-05-09.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-05-09.1. Lost, stolen, or mutilated certificate of title. If a certificate of title is lost, stolen, mutilated, destroyed, or becomes illegible, the first lienholder or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly make application for and may obtain a duplicate upon furnishing information satisfactory to the department, and upon the payment of five dollars. The department may issue a duplicate title at no cost to the first lienholder or, if none, the owner named in the

certificate, when satisfied the first lienholder or owner did not receive the original title which was issued. The duplicate certificate of title must contain the legend "This is a duplicate certificate and may be subject to the rights of a person under the original certificate". It must be mailed to the first lienholder named in it or, if none, to the owner.

A person recovering an original certificate of title for which a duplicate has been issued shall promptly surrender the original certificate to the department.

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Filed March 15, 1989

## CHAPTER 454

SENATE BILL NO. 2113  
(Committee on Transportation)  
(At the request of the Motor Vehicle Department)

### VEHICLE REGISTRATION FEE EXEMPTIONS

AN ACT to amend and reenact subdivisions i, j, l, and o of subsection 2 of section 39-04-18 of the North Dakota Century Code, relating to exemptions from vehicle registration fees for military personnel, disabled American veterans, well drillers, and former prisoners of war.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivisions i, j, l, and o of subsection 2 of section 39-04-18 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- i. ~~Motor vehicles~~ Vehicles owned and operated by nonresident military personnel stationed in this state and operated by such military personnel or their dependents, provided such motor vehicle is registered in the state or territory whereof such military person is a resident, and provided further that current license plates from such state or territory are displayed on such motor vehicle.
- j. Passenger motor vehicles, house cars, or pickup trucks not exceeding ten thousand pounds [4535.92 kilograms] gross weight owned and operated by a disabled veteran under the provisions of Public Law 79-663 [38 U.S.C. 1901]; provided, however, that such vehicles display a distinctive license plate issued by the department upon the payment of five dollars. This exemption applies to no more than two such motor vehicles owned by a disabled veteran at any one time.
- l. Motor vehicles owned and operated by the holder of a valid building mover's permit issued by the public service commission, or by a resident well driller; provided, however, that such vehicles are used only for moving buildings or building moving equipment, or on which is mounted well-drilling equipment are used only for drilling water wells or moving water well-drilling equipment; provided, further, that such vehicles display a license plate issued by the registrar of motor vehicles upon the payment of a fee of twenty-five dollars for two axle trucks, fifty dollars for tandem axle trucks and single axle truck-tractor units, and seventy-five dollars for each tandem axle truck-tractor unit.

Any vehicle which has been issued this special motor vehicle license may be registered under the regular motor vehicle registration law, by payment of the difference between

the amount paid for the special motor vehicle license and the regular registration fee for such vehicle.

Any vehicle which has been issued this special motor vehicle license and is found being operated upon the highways of this state without being equipped with special house-moving or well-drilling equipment, shall forfeit the fee paid and, in addition, must be required to register under the regular motor vehicle registration law of this state. None of the above limitations may be construed as restricting the operation of the special licensed vehicle when such operation would not require a greater fee than that paid for this operation.

- o. Passenger motor vehicles, house cars, or pickup trucks not exceeding ten thousand pounds [4535.92 kilograms] gross weight owned and operated by a resident who, while serving in the United States armed forces, was a prisoner of war and has received an honorable discharge from the United States armed forces; provided, however, that the vehicles display a distinctive license plate issued by the department upon the payment of five dollars. This exemption also applies to any passenger motor vehicle, house car, or pickup truck not exceeding ten thousand pounds [4535.92 kilograms] gross weight subsequently purchased or acquired by such a former prisoner of war; provided, that the exemption provided by this subdivision is allowed only with respect to one motor vehicle owned by such a former prisoner of war at any one time.

Approved March 17, 1989  
Filed March 17, 1989

## CHAPTER 455

HOUSE BILL NO. 1422  
 (Representatives Nowatzki, Ness, O'Shea)  
 (Senators D. Meyer, Richard, Axtman)

## FARM VEHICLE REGISTRATION FEES

AN ACT to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to special number plates for farm vehicles; to amend and reenact subsection 5 of section 39-04-19 of the North Dakota Century Code, relating to registration of certain farm motor vehicles; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 39-04-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Trucks or combinations of trucks and trailers weighing more than twenty thousand but not more than ~~eighty-two~~ one hundred five thousand ~~five hundred~~ five hundred pounds [more than 9071.84 but not more than ~~37,194.57~~ 47,854.00 kilograms] which are used as farm vehicles only, are entitled to registration under the following fee schedule and the provisions of this subsection. Farm vehicles are considered, for the purpose of this subsection, as trucks or combinations of trucks and trailers weighing more than twenty thousand but not more than ~~eighty-two~~ one hundred five thousand ~~five hundred~~ five hundred pounds [more than 9071.84 but not more than ~~37,194.57~~ 47,854.00 kilograms] owned, or leased for at least one year by a bona fide resident farmer who uses the vehicles exclusively for transporting the farmer's own property or other property on a farm work exchange basis with other farmers between farms and the usual local trading places but not in connection with any commercial retail or wholesale business being conducted from those farms, nor otherwise for hire. In addition to the penalty provided in section 39-04-41, any person violating this subsection shall license for the entire license period the farm vehicle at the higher commercial vehicle rate in accordance with the weight carried by the farm vehicle at the time of the violation.

Gross Weights	YEARS REGISTERED				
	1st, 2nd, 3rd, 4th, and 5th Years	6th and 7th Years	8th and 9th Years	10th and Subsequent Years	
20,001- 22,000	\$ 88.00	\$ 74.00	\$ 60.00	\$ 42.00	
22,001- 24,000	93.00	78.00	63.00	44.00	
24,001- 26,000	101.00	84.00	67.00	46.00	
26,001- 28,000	111.00	92.00	73.00	50.00	
28,001- 30,000	121.00	100.00	79.00	54.00	
30,001- 32,000	136.00	113.00	90.00	63.00	
32,001- 34,000	146.00	121.00	96.00	67.00	

34,001- 36,000	156.00	129.00	102.00	71.00
36,001- 38,000	166.00	137.00	108.00	75.00
38,001- 40,000	176.00	145.00	114.00	79.00
40,001- 42,000	186.00	153.00	120.00	83.00
42,001- 44,000	196.00	161.00	126.00	87.00
44,001- 46,000	206.00	169.00	132.00	91.00
46,001- 48,000	216.00	177.00	138.00	95.00
48,001- 50,000	226.00	185.00	144.00	99.00
50,001- 52,000	246.00	203.00	160.00	113.00
52,001- 54,000	256.00	211.00	166.00	117.00
54,001- 56,000	266.00	219.00	172.00	121.00
56,001- 58,000	276.00	227.00	178.00	125.00
58,001- 60,000	286.00	235.00	184.00	129.00
60,001- 62,000	296.00	243.00	190.00	133.00
62,001- 64,000	306.00	251.00	196.00	137.00
64,001- 66,000	316.00	259.00	202.00	141.00
66,001- 68,000	326.00	267.00	208.00	145.00
68,001- 70,000	336.00	275.00	214.00	149.00
70,001- 72,000	346.00	283.00	220.00	153.00
72,001- 74,000	356.00	291.00	226.00	157.00
74,001- 76,000	366.00	299.00	232.00	161.00
76,001- 78,000	376.00	307.00	238.00	165.00
78,001- 80,000	386.00	315.00	244.00	169.00
80,001- 82,000	396.00	323.00	250.00	173.00
82,001- 84,000	406.00	345.00	293.00	249.00
84,001- 86,000	426.00	362.00	307.00	261.00
86,001- 88,000	446.00	379.00	321.00	273.00
88,001- 90,000	466.00	396.00	335.00	285.00
90,001- 92,000	486.00	413.00	349.00	297.00
92,001- 94,000	506.00	430.00	363.00	309.00
94,001- 96,000	526.00	447.00	377.00	321.00
96,001- 98,000	546.00	464.00	391.00	333.00
98,001-100,000	566.00	481.00	405.00	345.00
100,001-102,000	586.00	498.00	419.00	357.00
102,001-104,000	606.00	515.00	433.00	369.00
104,001-105,500	626.00	532.00	447.00	381.00

SECTION 2. A new section to chapter 39-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Special number plates for farm vehicles. The registrar of motor vehicles shall issue, without an additional charge, upon application and payment of the registration fee, special number plates or validation decals making them distinctly different from other number plates, to any person registering a truck or combination of trucks and trailers as a farm vehicle under section 39-04-19. The registrar shall determine the form and size of the special number plates or validation decals and shall adopt rules governing the issuance of these special number plates or validation decals.

SECTION 3. EFFECTIVE DATE. This Act becomes effective on January 1, 1990.

Approved April 14, 1989  
Filed April 17, 1989

## CHAPTER 456

SENATE BILL NO. 2144  
(Committee on Transportation)  
(At the request of the Motor Vehicle Department)

### VEHICLE REGISTRATION VIOLATIONS

AN ACT to amend and reenact section 39-04-37 of the North Dakota Century Code, relating to violations of vehicle registration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-37. Violations of registration provisions. It is unlawful for any person to commit any of the following acts:

1. To operate, or for the owner thereof knowingly to permit anyone to operate, upon a highway any motor vehicle the registration of which has been canceled or revoked, or which is not registered for which the registration fees required in this title have not been paid, or which does not have attached thereto and displayed thereon a number plate, plates, or validation tabs assigned thereto by the registrar for the current registration period, subject to the exemptions allowed in this chapter title.
2. To display or cause or permit to be displayed, or to have in possession, any registration card, registration number plate, or validation tabs knowing the same to be fictitious or to have been canceled, revoked, suspended, or altered.
3. To lend any registration number plate, registration card, or validation tabs to any person not entitled thereto, or knowingly permit the use of any registration number plate or registration card by any person not entitled thereto.
4. To fail or refuse to surrender to the department, upon demand, any registration card, registration number plate, or validation tab which has been suspended, canceled, or revoked as is provided in this chapter.
5. To use a false or fictitious name or address in any application for the registration of any vehicle, or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise to commit a fraud in any application.
6. ~~To operate a passenger motor vehicle without payment of the registration fees as required in subsection 2 of section 39-04-19.~~

Approved March 14, 1989  
Filed March 15, 1989

## CHAPTER 457

HOUSE BILL NO. 1337  
(Representatives Kolbo, Carlson, Haugland)  
(Senators Lashkowitz, Heinrich, Lips)

### **PUBLIC TRANSPORTATION FUND**

AN ACT to create and enact a new chapter to title 39 of the North Dakota Century Code, relating to establishing a public transportation fund to provide payments to political subdivisions and nonprofit corporations for the purpose of establishing and operating public transportation systems; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 39 of the North Dakota Century Code is hereby created and enacted to read as follows:

Public transportation fund - Administration of the fund by commissioner. The state highway commissioner shall administer the public transportation fund. Payments disbursed under this chapter shall be paid from moneys deposited in the fund. The expenses arising from administration of the fund shall be paid from the fund within the limits of legislative appropriations.

Additional registration fee - Deposit in fund. At the time of registering a motor vehicle subject to registration under section 39-04-19, the owner shall pay to the registrar of motor vehicles in addition to the registration fee a fee of one dollar for each motor vehicle registered. The fee shall be deposited with the state treasurer, who shall credit the fee to the public transportation fund.

Definitions. In this Act, unless the context or subject matter otherwise requires:

1. "Public transportation" means the vehicular transportation of persons from place to place within this state, but does not include the provision of transportation facilities otherwise provided by public funds, such as roads, streets, highways, bridges, lighting equipment, or signs.
2. "Ridership" means a one-way trip provided to any one person in a motorized vehicle designed to carry eight or more persons in an enclosed area with separate seating for each person.
3. "Transportation provider" means a political subdivision or any nonprofit corporation that provides transportation to the public, especially to elderly and handicapped citizens.

Distribution of funds.



1. Moneys appropriated by the legislative assembly to the public transportation fund shall be disbursed under guidelines issued by the commissioner. The funds shall be used by transportation providers to establish and maintain public transportation, especially for the elderly and handicapped, and may be used to contract to provide public transportation, as matching funds to procure money from other sources for public transportation, and for other expenditures authorized by the commissioner.
2. Following authorization of the commissioner, the public transportation funds shall be paid by the state treasurer to transportation providers in each county. Each county shall receive six thousand one hundred dollars plus fifty cents per capita of population in the county, based upon the latest regular or special official federal census. If there are multiple transportation providers in one county, then the base amount of six thousand one hundred dollars will be divided equally among the providers, and the additional per capita amount will be based upon the percentage of elderly and handicapped ridership provided by each transportation provider within the county.
3. Unless otherwise provided by law, any moneys remaining in the fund at the end of each biennium shall be put back into the public transportation fund for redistribution.

SECTION 2. APPROPRIATION. There is hereby appropriated out of any moneys in the public transportation fund in the state treasury, not otherwise appropriated, the sum of \$1,340,000, or so much thereof as may be necessary, to the state highway commissioner for the purpose of carrying out this Act for the biennium beginning July 1, 1989, and ending June 30, 1991.

Approved April 11, 1989  
Filed April 11, 1989

## CHAPTER 458

SENATE BILL NO. 2134  
(Committee on Transportation)  
(At the request of the Motor Vehicle Department)

### ODOMETER DISCLOSURE

AN ACT to amend and reenact subsection 1 of section 39-05-05 of the North Dakota Century Code, relating to contents of an application for certificate of title.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. An application for a certificate of title must be made upon an appropriate form furnished or approved by the department and must contain all of the following:
  - a. A full description of the vehicle, including the name of the manufacturer, either the engine, serial, or identification number, and any other distinguishing marks.
  - b. A statement as to whether the vehicle is new or used.
  - c. A statement of the applicant's title and of any liens or encumbrances upon the vehicle.
  - d. The name and address of the person to whom the certificate must be delivered.
  - e. The names and addresses of any lienholders in the order of their priority and the dates of their security agreements.
  - f. If the vehicle for which certificate of title is sought is a specially constructed, reconstructed, or foreign vehicle, such facts must be stated in the application.
  - g. The buyer's street address, city, and county, or township and county, of residence and the dealer shall make specific inquiry relative thereto before filling in such information on the application.
  - h. The department may require odometer disclosure information as required under the Truth in Mileage Act of 1986 [Pub. L. 99-579].
  - i. Such other information as the department may require.

Approved March 22, 1989  
Filed March 23, 1989

## CHAPTER 459

SENATE BILL NO. 2138  
(Committee on Transportation)  
(At the request of the Motor Vehicle Department)

### MOTOR VEHICLE TITLE PROOF OF OWNERSHIP

AN ACT to amend and reenact subsection 1 of section 39-05-20 of the North Dakota Century Code, relating to obtaining certificate of title upon inability to obtain an assigned certificate of title for a vehicle.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-05-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. When the transferee of a vehicle is unable to obtain a properly assigned certificate of title for a vehicle, and makes application for a new certificate and presents satisfactory proof of ownership, the department may cancel the old certificate and issue a new certificate to the transferee. Satisfactory proof of ownership must include compliance by the transferee with the procedures outlined in title 35. The department may establish procedures for determining satisfactory proof of ownership of a vehicle in those cases where the department is unable to determine the legal owner of record. Any person aggrieved by a decision of the department as to ownership of a vehicle may appeal that decision to the district court under chapter 28-32.

Approved March 14, 1989  
Filed March 15, 1989

## CHAPTER 460

HOUSE BILL NO. 1172  
(Committee on Transportation)  
(At the request of the Highway Department)

### MOTOR VEHICLE OPERATOR'S LICENSES

AN ACT to create and enact a new subsection to section 39-06-02 of the North Dakota Century Code, relating to national guard operator's licenses; and to amend and reenact subsection 1 of section 39-06-01, sections 39-06-04, 39-06-13, subsection 7 of section 39-06-14, and section 39-16-03 of the North Dakota Century Code, relating to the surrender of drivers' licenses, instruction permits, the examination of applicants, and the recovery of canceled, suspended, or revoked licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A person, unless expressly exempted in this section, may not drive any motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state unless the person has a valid license as an operator under the provisions of this chapter or a temporary operator's permit issued under chapter 39-20. A person may not receive an operator's license unless and until that person surrenders to the commissioner all ~~valid operator's licenses in the person's possession~~ issued to the person by any ~~other~~ jurisdiction. ~~All surrendered licenses must be returned by the commissioner to the issuing department together with information that the licensee is now licensed in a new jurisdiction.~~ When a license issued by another jurisdiction is surrendered, the commissioner shall notify the issuing jurisdiction of its surrender. A person may not have more than one valid operator's license at any time.

SECTION 2. A new subsection to section 39-06-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

National guard - Military vehicle. A member of the North Dakota national guard may operate any military vehicles as authorized by a national guard operator's license while on duty.

SECTION 3. AMENDMENT. Section 39-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-04. Instruction permit. Any person who is at least fourteen years of age may apply to the commissioner for an instruction permit. The commissioner may in his discretion issue to the applicant an instruction permit which entitles the applicant while having such permit in his immediate possession to drive a motor vehicle upon the public highways for a period of

one year when accompanied by a licensed operator who holds a license corresponding to the vehicle he operates and has had at least one year of driving experience and who is occupying a seat beside the driver, ~~except in the event the permittee is operating a motorcycle.~~ Persons holding an instruction permit for the operation of a motorcycle shall operate the motorcycle only during hours when the use of headlights is not required pursuant to section 39-21-01, and may not carry or transport any passenger. Any ~~such~~ instruction permit may be renewed or a new permit issued for an additional period. A person who is not yet eighteen years of age is not eligible for a license ~~under this chapter~~ until that person has had an instruction permit issued ~~under this chapter~~ for at least three months. The commissioner may recognize an instruction permit issued by another jurisdiction in computing the three-month instructional period.

SECTION 4. AMENDMENT. Section 39-06-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-13. Examination of applicants. The commissioner shall examine every applicant for an operator's license, except as otherwise provided in this chapter. Such examination must include a test of the applicant's eyesight, ability to read and understand highway signs regulating, warning, and directing traffic, and knowledge of the traffic laws of this state. An actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle is also required, but may be waived for those applicants who have successfully passed such a test in some other state. ~~The commissioner shall make provision for giving an examination either in the county where the applicant resides or at a place adjacent thereto reasonably convenient to the applicant within not more than thirty days from the date the application is received. Operators' examinations must be given at locations designated by the commissioner.~~ The commissioner may require such other physical or mental examination as may be deemed advisable. ~~After three unsuccessful attempts to pass, within any six-month period, all parts of any license examination required to be taken pursuant to this chapter; no person may be allowed to make another attempt to pass any unsuccessfully attempted parts of the license examination within four months of the last unsuccessful attempt.~~

\* SECTION 5. AMENDMENT. Subsection 7 of section 39-06-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. The commissioner may issue a motorized bicycle operator's permit to an applicant who is at least fourteen years of age. To obtain a permit, the applicant shall pay a fee of ten dollars and take a written examination of the applicant's knowledge of traffic laws and general rules of the road. If the applicant passes the written examination and the commissioner is satisfied that the applicant has adequate eyesight, the commissioner may issue the applicant a motorized bicycle operator's permit, even if the applicant does not have an operator's license. The permit expires in the same manner as an operator's license. A person who has an operator's license, a temporary permit, an ~~instructor's instruction~~ permit, or a motorcycle permit is not required to obtain a motorized bicycle operator's permit.

\*\* SECTION 6. AMENDMENT. Section 39-16-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* NOTE: Section 39-06-14 was also amended by section 4 of Senate Bill No. 2055, chapter 303, and section 1 of House Bill No. 1666, chapter 461.

\*\* NOTE: Section 39-16-03 was also amended by section 1 of House Bill No. 1351, chapter 473.

39-16-03. Abstract - Not admissible in evidence - Fee. The commissioner upon request shall furnish any person a certified abstract of the operating record of any person subject to the provisions of this chapter which must include the convictions, adjudications, and admissions of commission of traffic offenses of any driver and suspensions, revocations, and restrictions of a person's driving privileges.

Copies of abstracts are not admissible as evidence in any civil or criminal trial arising out of a motor vehicle accident.

A fee of ~~two~~ three dollars must be paid for each abstract of any operating record. The commissioner shall send an additional copy of the abstract to the driver whose abstract was requested, accompanied by a statement identifying the person making the request. No abstract or statement may be sent to a driver where the request for the driver's abstract was made by the federal bureau of investigation or the United States central intelligence agency, or their agents, or by any law enforcement agency of this state, or of its political subdivisions.

Approved March 16, 1989  
Filed March 16, 1989

## CHAPTER 461

HOUSE BILL NO. 1666  
(Representatives Timm, R. Anderson)  
(Senators Schoenwald, Satrom)  
(Approved by the Committee on Delayed Bills)

### COMMERCIAL DRIVER LICENSING

AN ACT to create and enact chapter 39-06.2 of the North Dakota Century Code, relating to commercial driver's licensing, testing for and issuance of a commercial driver's license, employer and employee responsibilities, suspension or revocation of a commercial driver's license, and classification of commercial motor vehicles; to amend and reenact section 39-06-14, subsection 3 of section 39-06-17, subsections 4 and 7 of section 39-06-32, and subsections 1, 2, 3, and 4 of section 39-20-07 of the North Dakota Century Code, relating to classification of drivers' licenses, a restricted operator's license or permit, refusal of a chemical test in another state, and blood alcohol concentration and its applicability to chapter 39-06.2; and to provide an effective date and application of this Act to existing operators' licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Section 39-06-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-14. Licenses issued to operators - General - Classified driver's license.

1. The commissioner shall, upon payment of a ten dollar fee, issue to every qualified applicant an operator's license as applied for in the form prescribed by the commissioner. The license must bear a distinguishing number assigned to the licensee, a color photograph of the licensee, the full name, date of birth, residence address, and a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write the licensee's usual signature. If the licensee is under the age of twenty-one, the photograph must be against a color background that is different from the color used for other licensees. If requested on the license application, the license issued by the commissioner must identify the licensee as a donor under the provisions of chapter 23-06.1. No license is valid until it has been signed by the licensee with the licensee's usual signature. For purposes of verification, an officer may require the licensee to write the licensee's signature in the presence of the officer. The commissioner may adopt rules, pursuant to chapter 28-32, relating to the manner in which photographs are to be obtained and placed on operator's licenses.

2. ~~Repealed by S.L. 1977, ch. 345, § 2-~~

\* NOTE: Section 39-06-14 was also amended by section 5 of House Bill No. 1172, chapter 460, and section 4 of Senate Bill No. 2055, chapter 303.

- 3- a. All applicants holding a valid North Dakota operator's license making application for renewal, must be issued a class 3 D license without being subjected to an examination as herein provided.
- b. All applicants, except those holding a valid North Dakota operator's license who will be issued a class 3 D license, applying for issuance of operator licenses must be issued a classified license after having been required to submit to an examination in the type of motor vehicle or combination of vehicles for which license is desired and which license shall authorize the holder to drive the vehicles set forth in a class as provided in section 39-06.2-09, or as follows:

~~(1) Class 1- Any vehicle or combination of vehicles except vehicles under class 4-~~

~~(2) Class 2- Any vehicle or combination of vehicles except-~~

~~(a) Vehicles towing a trailer when the trailer being towed has a gross weight in excess of six thousand pounds [2721.55 kilograms]-~~

~~(b) Vehicles under class 4-~~

~~(3) Class 3- Any two-axle or tandem-axle vehicle except-~~

~~(a) A truck tractor combination as defined in subsection 84 of section 39-01-01-~~

~~(b) A bus more than eighty inches [20.32 decimeters] in width and designed to carry more than thirteen persons and used for carrying passengers-~~

~~(c) A two-axle or tandem-axle vehicle or combination of vehicles when towing a trailer when the trailer being towed has a gross weight in excess of six thousand pounds [2721.55 kilograms]-~~

~~(d) Vehicles under class 4-~~

An operator with a class 3 license may operate a farm tractor towing another vehicle having a gross weight in excess of six thousand pounds [2721.55 kilograms]-, and a truck towing a trailer, semitrailer, or farm trailer when the gross weight of the trailer, semitrailer, or farm trailer, not including the weight of the towing vehicle, does not exceed twenty-four thousand pounds [10,886.22 kilograms]-.

- (1) Class D. Any single vehicle with a gross vehicle weight rating of twenty-six thousand pounds [11793.40 kilograms] or less or any such vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand pounds [4535.92 kilograms]. A driver with a class D license may operate a farm tractor towing another vehicle having a gross weight in excess of ten thousand pounds [4535.92



kilograms], and a truck towing a trailer, semitrailer, or farm trailer when the gross weight of the trailer, semitrailer, or farm trailer, not including the weight of the towing vehicle, does not exceed sixteen thousand pounds [7257.48 kilograms].

(2) A house car or a vehicle towing a travel trailer being used solely for personal purposes may be driven with a class D license.

(3) Farm exemption. The holder of a class D license may operate any two-axle or tandem-axle motor vehicle, a farm tractor towing another vehicle having a gross weight in excess of six thousand pounds [2721.55 kilograms], and a truck towing a trailer, semitrailer, or farm trailer when the gross weight of the trailer, semitrailer, or farm trailer, not including the weight of the towing vehicle, does not exceed twenty-four thousand pounds [10886.22 kilograms] exempted under subsection 3 of section 39-06.2-06, except:

(a) A truck tractor as defined in subsection 84 of section 39-01-01.

(b) A bus designed to carry sixteen or more passengers, including the driver.

(4) Class 4 M. Any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding motorized bicycles, tractors, and vehicles on which the operator or passengers, or both, ride within an enclosed cab. A class M vehicle may not be operated under a class A, B, C, or D license.

c. The holder of a class ~~1, 2, or 3~~ A, B, C, or D license may receive a class 4 M endorsement upon successful completion of an examination.

d. The holder of a class A, B, or C license may drive any vehicle in that classification, or lesser classification, except a class M vehicle.

~~d~~ e. An applicant sixteen years of age and older, who does not hold a current valid operator's license may be issued a class 4 M learner's permit after successful completion of a written examination. The class 4 M license will be issued after the applicant has successfully completed a driver's examination.

~~e~~ f. Applicants fourteen or fifteen years of age may be issued a motorcycle learner's permit if the applicant is enrolled in or has completed an approved motorcycle safety course. Applicants for a motorcycle operator's license who are under sixteen shall hold an initial learner's permit for at least two months before applying for a class 4 M operator's license, shall have completed an approved motorcycle safety course, and shall hold a valid motorcycle learner's permit at the time of application.

Any person under sixteen years of age who holds a permit or license is restricted to the operation of a motorcycle powered with an engine of two hundred fifty cubic centimeters, or less, displacement. Evidence that the applicant has satisfactorily completed a motorcycle safety course which meets the minimum requirements of the motorcycle safety foundation must accompany the application.

~~4-~~ Repealed by S.L. 1987, ch. 384, § 8-

- 5- 3. Any holder of a classified license who drives a motor vehicle otherwise than as permitted by the class of license issued to him must be deemed to be driving a motor vehicle without being duly licensed by this chapter. The holder of a classified license who desires to obtain a different class license in one of the classes provided by this chapter must exchange or renew such license. The commissioner may impose such rules and regulations as he may deem necessary with respect to such renewals or exchanges for the proper administration of this chapter. No class A, B, or 2 C license may be issued to any person under eighteen years of age.
- 6- 4. If any holder of a license issued pursuant to this chapter suffers permanent loss of use of a hand, arm, foot, leg, or eye, he shall, before operating any motor vehicle or motorcycle, make a report thereof to the commissioner who shall take such reasonable action as may be proper under the provisions of this chapter as to reexamination to determine if the licensee is capable of operating vehicles for which the individual is licensed.
- 7- 5. The commissioner may issue a motorized bicycle operator's permit to an applicant who is at least fourteen years of age. To obtain a permit, the applicant shall pay a fee of ten dollars and take a written examination of the applicant's knowledge of traffic laws and general rules of the road. If the applicant passes the written examination and the commissioner is satisfied that the applicant has adequate eyesight, the commissioner may issue the applicant a motorized bicycle operator's permit, even if the applicant does not have an operator's license. The permit expires in the same manner as an operator's license. A person who has an operator's license, a temporary permit, an instructor's permit, or a motorcycle permit is not required to obtain a motorized bicycle operator's permit.

SECTION 2. AMENDMENT. Subsection 3 of section 39-06-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A restricted operator's license or permit to operate the parent's or guardian's automobile, or an automobile which is equipped with dual controls and while accompanied by a qualified instructor, may be issued to any child, who is at least fourteen years of age, and otherwise qualified, upon the written recommendation of the parent or guardian. No operator's license may be issued until the child, accompanied by the parent or guardian, appears in person and satisfies the commissioner that:
- a. The child is at least fourteen years of age.
  - b. The child is qualified to operate an automobile safely.

- c. It is necessary for the child to drive the parent's or guardian's automobile without being accompanied by an adult.
- d. The child has completed a course of classroom instruction and a course of behind-the-wheel instruction acceptable to the commissioner; or, in the alternative, has successfully completed a course at an approved commercial driver training school.

The parent or guardian, at all times is responsible for any and all damages growing out of the negligent operation of a motor vehicle by any such child. The provisions of this subsection do not authorize the child to drive a commercial truck, motorbus, or taxicab, or a truck having a gross weight in excess of fifty thousand pounds or greater except the holder of a Class D license, fourteen or fifteen years of age, may drive a farm motor vehicle having a gross weight of fifty thousand pounds [22679.62 kilograms] when used to transport agricultural products, farm machinery, or farm supplies to or from a farm when so operated within one hundred fifty miles [241.40 kilometers] of the driver's farm.

SECTION 3. AMENDMENT. Subsections 4 and 7 of section 39-06-32 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

4. Refusal to submit to an implied consent chemical ~~blood alcohol~~ alcohol test in another state. For purposes of this subsection the specific requirements for establishing a refusal used in the other state may not be considered, and photostatic copies of the records of the other state's drivers licensing authority are sufficient evidence of the refusal whether or not those copies are certified. The suspension must be for the same length of time as the revocation in section 39-20-04. If the refusal arose out of an arrest or stop of a person while operating a commercial motor vehicle, the period of suspension must be the same as the period of revocation provided in section 39-20-04.
7. An administrative decision in another state that the licensee's privilege to drive in that state is suspended or revoked because of a violation of that state's law forbidding motor vehicle operation with ~~a blood an~~ an alcohol concentration of at least ten one-hundredths of one percent by weight. The specific requirements for establishing the violation in the other state may not be considered and certified copies of the records of the other state's drivers licensing authority are sufficient evidence of the violation. The suspension must be for the same duration as the suspension in section 39-20-04.1.

SECTION 4. Chapter 39-06.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-06.2-01. Uniform Commercial Driver's License Act. The purpose of this chapter is to implement the federal Commercial Motor Vehicle Safety Act of 1986 [Title XII of Pub. L. 99-570] and reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by:

1. Permitting commercial drivers to hold only one license;

2. Disqualifying commercial drivers who have committed certain serious traffic violations, or other specified offenses; and
3. Strengthening commercial driver's licensing and testing standards.

This chapter is a remedial law which should be liberally construed to promote the public health, safety, and welfare. To the extent that this chapter conflicts with general driver's licensing provisions, this chapter prevails. Where this chapter is silent, the general driver's licensing provisions apply.

39-06.2-02. Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.
2. "Alcohol concentration" means:
  - a. The number of grams of alcohol per one hundred milliliters of blood;
  - b. The number of grams of alcohol per two hundred ten liters of breath; or
  - c. The number of grams of alcohol per sixty-seven milliliters of urine.
3. "Commercial driver's instruction permit" means a permit issued under subsection 4 of section 39-06.2-07.
4. "Commercial driver's license" means a license issued under this chapter which authorizes an individual to drive a class of commercial motor vehicle.
5. "Commercial driver's license information system" means the information system established under the Commercial Motor Vehicle Safety Act to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.
6. "Commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property:
  - a. If the vehicle has a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms] or such lesser rating as determined by federal regulation;
  - b. If the vehicle is designed to transport sixteen or more passengers, including the driver; or
  - c. If the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 CFR part 172, subpart F.
7. "Controlled substance" means any substance so classified under section 802(6) of the Controlled Substances Act [21 U.S.C. 802(6)],

and includes all substances listed on schedules I through V, of 21 CFR part 1308, as they may be revised from time to time.

8. "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
9. "Disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle.
10. "Drive" means to drive, operate, or be in physical control of a motor vehicle.
11. "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license.
12. "Driver's license" means a license issued by a state to an individual which authorizes the individual to drive a motor vehicle.
13. "Drug" means any drug or substance or combination of drugs or substances which renders a person incapable of safely driving, and includes any controlled substance.
14. "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.
15. "Felony" means any offense under state or federal law which is punishable by death or imprisonment for a term exceeding one year.
16. "Foreign jurisdiction" means any jurisdiction other than a state of the United States.
17. "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight or a single or a combination (articulated) vehicle, or registered gross weight, whichever is greater. The gross vehicle weight rating of a combination (articulated) vehicle (commonly referred to as the "gross combination weight rating") is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of the towed unit or units.
18. "Hazardous materials" has the meaning as that found in section 103 of the Hazardous Materials Transportation Act [49 App. U.S.C. 1801 et seq.].
19. "Motor vehicle" means every vehicle that is self-propelled, and every vehicle that is propelled by electric power obtained from

overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheel chairs.

20. "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

21. "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:

a. Excessive speeding, involving a single charge of any speed fifteen miles per hour or more, above the posted speed limit;

b. Reckless driving, as defined under section 39-08-03 or local ordinance, including charges of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property, improper or erratic traffic lane changes, or following the vehicle ahead too closely; or

c. A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident.

22. "State" means a state of the United States or the District of Columbia.

23. "United States" means the fifty states and the District of Columbia.

39-06.2-03. Limitation on number of driver's licenses. No person who drives a commercial motor vehicle may have more than one driver's license.

39-06.2-04. Notification required by driver.

1. Notification of convictions.

a. To state: Any driver holding a commercial driver's license issued by this state who is convicted of violating any state or local ordinance relating to motor vehicle traffic control in any other state or any federal, provincial, territorial, or municipal law of Canada, other than parking violations, must notify the commissioner in the manner specified by the commissioner within thirty days of the date of conviction.

b. To employers: Any driver holding a commercial driver's license issued by this state who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in this or any other state or any federal, provincial, territorial, or municipal law of Canada, other than parking violations, must notify the driver's employer in writing of the conviction within thirty days of the date of conviction.

2. Notification of suspensions, revocations, and cancellations. Any driver whose commercial driver's license is suspended, revoked, or canceled by any state, or who loses the privilege to drive a commercial motor vehicle in any state for any period, including being disqualified from driving a commercial motor vehicle, must

notify the employer of that fact before the end of the business day following the day the driver received notice of that fact.

3. Notification of previous employment. Any person who applies to be a commercial motor vehicle driver must provide the employer, at the time of the application, with the following information for the ten years preceding the date of application:

- a. A list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;
- b. The dates between which the applicant drove for each employer; and
- c. The reason for leaving that employer.

The applicant must certify that all information furnished is true and complete. An employer may require an applicant to provide additional information.

#### 39-06.2-05. Employer responsibilities.

1. Each employer shall require the applicant to provide the information specified in section 39-06.2-04.
2. No employer may knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle during any period:
  - a. In which the driver's commercial driver's license is suspended, revoked, or canceled by any state or in which the driver is currently disqualified from driving a commercial vehicle or subject to an out-of-service order in any state; or
  - b. In which the driver has more than one driver's license.

#### 39-06.2-06. Commercial driver's license required.

1. Except when driving under a commercial driver's instruction permit and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, no person may drive a commercial motor vehicle on the highways of this state unless the person holds and is in immediate possession of a commercial driver's license with applicable endorsements valid for the vehicle the person is driving. This subsection does not apply:
  - a. When the vehicle being driven is a house car or a vehicle towing a travel trailer being used solely for personal rather than commercial purposes.
  - b. When the vehicle being driven constitutes emergency or firefighting equipment necessary to the preservation of life or property.
2. No person may drive a commercial motor vehicle on the highways of this state while the person's driving privilege is suspended, revoked, or canceled, while subject to a disqualification.

3. The provisions of this chapter are waived, as to farm-to-market operations by farmers, but limited to those operators of a farm vehicle that is:
  - a. Controlled and operated by a farmer.
  - b. Used to transport either agricultural products, farm machines, farm supplies, or both, to or from a farm.
  - c. Not used in the operations of a common or contract carrier.
  - d. Used within one hundred fifty miles of the person's farm.

39-06.2-07. Commercial driver's license qualification standards.

1. Testing.

- a. General. No person may be issued a commercial driver's license unless that person is a resident of this state and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulations enumerated in 49 CFR part 383, subparts G and H, and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act in addition to other requirements imposed by state law or federal regulation. The tests must be prescribed and conducted by the commissioner. The applicant must pay a fee of five dollars for each of the tests.
  - b. Third-party testing. The commissioner may authorize a person, including an agency of this or another state, an employer, a private driver's training facility, or other private institution, or a department, agency, or instrumentality of local government, to administer the skills test specified by this section, provided:
    - (1) The test is the same as that which would otherwise be administered by the state; and
    - (2) The third party has entered into an agreement with this state which complies with requirements of 49 CFR part 383.75.
2. Waiver of skills test. The commissioner may waive the skills test specified in this section for a commercial driver's license applicant who meets the requirements of 49 CFR part 383.77.
  3. Limitations on issuance of license. A commercial driver's license, or commercial driver's instruction permit, may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked, or canceled in any state; nor may a commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses. The commissioner shall notify the issuing state of the surrender of the license.



4. Commercial driver's instruction permit.

- a. A commercial driver's instruction permit may be issued to an individual who holds a valid class D driver's license who has passed the vision and written tests required for an equivalent commercial driver's license.
- b. The commercial driver's instruction permit may not be issued for a period to exceed six months. Only one renewal or reissuance may be granted within a two-year period. The holder of a commercial driver's instruction permit may, unless otherwise disqualified, drive a commercial motor vehicle only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle.

39-06.2-08. Application for commercial driver's license.

1. The application for a commercial driver's license or commercial driver's instruction permit must include the following:

- a. The full name and current mailing address of the person;
- b. A physical description of the person, including sex, height, weight, and eye and hair color;
- c. Date of birth;
- d. The applicant's social security number;
- e. The person's signature;
- f. The certifications including those required by 49 CFR part 383.71(a);
- g. Any other information required by the commissioner; and
- h. A consent to release driving record information.

The application must be accompanied by an application fee of fifteen dollars.

2. When the holder of a commercial driver's license changes the holder's name or mailing address, an application for a duplicate license must be made as provided in section 39-06-18.
3. No person who has been a resident of this state for thirty days may drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.
4. Any person who knowingly falsifies information or certifications required under subsection 1 is subject to suspension, revocation, or cancellation of the person's commercial driver's license for a period of at least sixty consecutive days.

39-06.2-09. Commercial driver's license.

1. Content of license. The commercial driver's license must be marked "commercial driver's license", and must be, to the maximum extent practicable, tamper proof. It must include the following information:
  - a. The name and residential address of the person;
  - b. The person's color photograph;
  - c. A physical description of the person, including sex, height, weight, and eye and hair color;
  - d. Date of birth;
  - e. The person's social security number;
  - f. The person's signature;
  - g. The class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restrictions;
  - h. The name of this state; and
  - i. The dates between which the license is valid.
2. Classifications, endorsements, and restrictions. Commercial drivers' licenses may be issued with the following classifications, endorsements, and restrictions; the holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued, and all lesser classes of vehicles except motorcycles. Vehicles for which an endorsement is required may not be driven unless the proper endorsement appears on the license. The requirements of placarding vehicles transporting hazardous materials under subparagraph (b) of paragraph (3) of subdivision a and the endorsement required under paragraph (1) of subdivision b do not apply to a person who is the operator of a farm vehicle, provided such vehicle is controlled and operated by a farmer and used to transport hazardous materials in the form of farm supplies within one hundred fifty miles [241.40 kilometers] of the farm, and not used in the operations of a common or contract carrier.
  - a. Classifications:
    - (1) Class A. Any combination of vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], provided the gross vehicle weight rating of the vehicles being towed is in excess of ten thousand pounds [4535.92 kilograms].
    - (2) Class B. Any single vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], and any such vehicle towing a vehicle not in excess of ten thousand pounds [4535.92 kilograms].
    - (3) Class C. Any single vehicle with a gross vehicle weight rating of twenty-six thousand pounds [11793.40 kilograms]

or less or any such vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand pounds [4535.92 kilograms] comprising:

- (a) Vehicles designed to transport sixteen or more passengers, including the driver; and
- (b) Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 CFR part 172, subpart F.

b. Endorsements and restrictions.

- (1) "H" - authorizes the driver to drive a vehicle transporting hazardous materials.
- (2) "T" - authorizes driving double and triple trailers.
- (3) "P" - authorizes driving vehicles carrying passengers.
- (4) "N" - authorizes driving tank vehicles.
- (5) "X" - combinations of tank vehicles and hazardous material vehicles.

Other restrictions may be placed upon a commercial driver's license, as provided in section 39-06-17. The applicant shall pay a fee of three dollars for each endorsement.

3. Applicant record check. Before issuing a commercial driver's license, the commissioner shall obtain driving record information through the commercial driver's license information system, the national driver's register, and from each state in which the person has been licensed.
4. Notification of license issuance. Within ten days after issuing a commercial driver's license, the commissioner shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the person.
5. Expiration of license. A commercial driver's license issued under this chapter expires in the manner provided for operator's licenses under section 39-06-19.
6. License renewal procedures. Every person applying for renewal of a commercial driver's license must complete the application form required by subsection 1 of section 39-06.2-08, providing updated information and required certifications. If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed.

39-06.2-10. Disqualification and cancellation.

1. Disqualification offenses. Any person is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:

- a. Driving a commercial motor vehicle under the influence of alcohol or drugs;
- b. Leaving the scene of an accident involving a commercial motor vehicle driven by the person in violation of section 39-08-04, 39-08-05, 39-08-07, or 39-08-09;
- c. Using a commercial motor vehicle in the commission of any felony as defined in this chapter; or
- d. Refusal to submit to a test to determine the driver's alcohol concentration while driving a commercial motor vehicle.

If any of the above violations occurred while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three years.

2. A person is disqualified for life if convicted of two or more violations of any of the offenses specified in subsection 1, or any combination of those offenses, arising from two or more separate incidents. Only offenses committed after the effective date of this chapter may be considered in applying this subsection.
3. The commissioner may adopt rules under section 39-06.2-14, establishing guidelines, including conditions, under which a disqualification for life under subsection 2 may be reduced to a period of not less than ten years.
4. A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.
5. A person is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations, or one hundred twenty days if convicted of three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.
6. Notice and hearing. Prior to suspending, revoking, or disqualifying a driver under this section, the commissioner must provide the driver with notice of opportunity for hearing, in accordance with section 39-06-33, and the hearing requested must be held in accordance with section 39-06-33.
7. After suspending, revoking, or canceling a commercial driver's license, the commissioner shall update the commissioner's records to reflect that action within ten days. After suspending, revoking, or canceling a nonresident commercial driver's privileges, the commissioner shall notify the licensing authority of the state that issued the commercial driver's license or commercial driver's instruction permit within ten days.

39-06.2-11. The commissioner may issue a class D driver's license to a driver suspended, revoked, or disqualified under this chapter when:

1. The suspension, revocation, or disqualification arises from a violation under this chapter which would not require similar sanctions under chapter 39-06 or 39-06.1.
2. The period of suspension, revocation, or disqualification imposed for a violation under this chapter is greater than that which could have been imposed under chapter 39-06 or 39-06.1 for the same violation, and the period of suspension or revocation provided for under chapter 39-06 or 39-06.1 has been satisfied under the existing suspension or revocation.

39-06.2-12. Notification of traffic convictions. Within ten days after receiving a report of the conviction of any nonresident holder of a commercial driver's license for any violation of state or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle, the commissioner shall notify the driver's licensing authority in the licensing state of the conviction.

39-06.2-13. Driving record information to be furnished. Notwithstanding any other provision of law, the commissioner shall furnish full information regarding the driving record of any person:

1. To the driver's license administrator of any other state or of a province or territory of Canada, requesting that information;
2. To any employer or prospective employer upon request and payment of a fee of three dollars;
3. To insurers upon request and payment of a fee of three dollars.

39-06.2-14. Rulemaking authority. The commissioner may, pursuant to chapter 28-32, adopt any rules necessary to carry out the provisions of this chapter.

39-06.2-15. Authority to enter agreements. The commissioner may enter into or make agreements, arrangements, or declarations to carry out the provisions of this chapter.

39-06.2-16. Reciprocity.

1. Notwithstanding any other provision of law, a person may drive a commercial motor vehicle in this state if the person has a valid commercial driver's license or commercial driver's license instruction permit issued by any state, or province or territory of Canada, in accordance with the minimum federal standards for the issuance of a commercial motor vehicle driver's license, if the person's license or permit is not suspended, revoked, or canceled, and if the person is not disqualified from driving a commercial motor vehicle.
2. The commissioner must give all out-of-state convictions full faith and credit and treat them for sanctioning purposes under this chapter as if they occurred in this state. Certified copies of the records of the other state's driver's licensing authority are sufficient evidence of the conviction.

SECTION 5. AMENDMENT. Subsections 1, 2, 3, and 4 of section 39-20-07 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. A person having, at that time, ~~a blood an~~ alcohol concentration of not more than five one-hundredths of one percent by weight is presumed not to be under the influence of intoxicating liquor.
2. Evidence that there was at that time more than five one-hundredths of one percent by weight ~~of alcohol concentration in the person's~~ blood a person is relevant evidence, but it is not to be given prima facie effect in indicating whether the person was under the influence of intoxicating liquor.
3. A person having ~~a blood an~~ alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after driving or being in physical control of a vehicle is under the influence of intoxicating liquor at the time of driving or being in physical control of a vehicle.
4. ~~Percent by weight of alcohol in the blood or blood alcohol~~ Alcohol concentration is based upon grams of alcohol per one hundred cubic centimeters of blood or grams of alcohol per two hundred ten liters of alveolar air or grams of alcohol per sixty-seven cubic centimeters of urine.

SECTION 6. EFFECTIVE DATE - APPLICATION. This Act becomes effective July 1, 1989. Any valid driver's license need not be replaced by a commercial driver's license or other license designated in this Act, until it expires.

Approved April 10, 1989  
Filed April 11, 1989

## CHAPTER 462

HOUSE BILL NO. 1174  
(Committee on Transportation)  
(At the request of the Highway Department)

### OPERATOR'S LICENSES AND INSURANCE

AN ACT to create and enact a new section to chapter 39-16.1 of the North Dakota Century Code, relating to verification of operator's liability insurance; and to amend and reenact section 39-06-34 of the North Dakota Century Code, relating to the immediate suspension of licenses of drivers constituting a threat to the motoring public.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-34. Commissioner may require reexamination. In addition to other powers set forth in this chapter, the commissioner, having good cause to believe that a licensed operator is incompetent or otherwise not qualified to be licensed, may upon written notice of at least five days to the licensee require ~~him~~ the licensee to submit to such physical, mental, or driver's examination as may be deemed necessary. If the commissioner has good cause to believe that the licensed operator presents an immediate danger to the motoring public, the commissioner may immediately, and without prior notice, suspend the operator's license pending the examination. The notice of suspension must provide the operator with the opportunity for a hearing within five days of the receipt of the notice of suspension. When a hearing is requested it must be conducted under section 39-06-33 and the decision must be rendered within two days of the conclusion of the hearing. Upon the conclusion of such examination the commissioner shall take action as may be appropriate and may suspend or revoke the license of such person or permit ~~him~~ the licensee to retain ~~his~~ the license, or may issue a license subject to restrictions as permitted under section 39-06-17. Refusal or neglect of the licensee to submit to such examination shall be ground for suspension or revocation of ~~his~~ the license.

SECTION 2. A new section to chapter 39-16.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Verification of liability insurance. No operator's license may be returned to an individual unless that person files with the commissioner a verified statement confirming the person's insurance coverages as required by section 39-08-20. The verified statement must include the name of the insurance carrier and the effective dates of the policy. Upon the request of the commissioner, the insurance carrier will verify the information contained in the verified statement. The commissioner shall suspend the operator's license of any person upon receiving satisfactory evidence that the verified statement contains false or fraudulent information. The period of suspension may not exceed six months. Any suspension must be initiated under section 39-06-33. An operator whose license is suspended under this section is not eligible for a temporary operator's permit.

Approved March 9, 1989  
Filed March 9, 1989

## CHAPTER 463

HOUSE BILL NO. 1053  
(Legislative Council)  
(Interim Judiciary Committee)

### MOTOR VEHICLE EQUIPMENT OFFENSES

AN ACT to create and enact two new paragraphs to subdivision b of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to penalty point assessments for motor vehicle equipment violations; to amend and reenact sections 39-06.1-05, 39-06.1-09, paragraph 9 of subdivision a of subsection 3 of section 39-06.1-10, sections 39-07-09 and 39-21-09, and subsection 1 of section 39-21-46 of the North Dakota Century Code, relating to the disposition of traffic offenses, traffic offenses for which a person may be released upon a promise to appear, penalty point assessments, and motor vehicle equipment violations; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06.1-05. Offenses excepted. The procedures authorized under sections 39-06.1-02 and 39-06.1-03 may not be utilized by a person charged with one of the following offenses:

1. Driving or being in actual physical control of a vehicle in violation of section 39-08-01, or an equivalent ordinance.
2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or an equivalent ordinance.
3. A violation of chapter 12.1-16 resulting from the operation of a motor vehicle.
4. Leaving the scene of an accident in violation of section 39-08-04, 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances.
5. Driving while license or driving privilege is suspended or revoked in violation of section 39-06-42, or an equivalent ordinance.
6. Violating subdivision b or c of subsection 5 of section 39-24-09.
7. Operating a modified motor vehicle in violation of section 39-21-45.1.
8. Driving without liability insurance in violation of section 39-08-20.



9. Failing to display a placard or flag, in violation of any rule implementing section 39-21-44, while transporting explosive or hazardous materials.
10. Operating an unsafe vehicle in violation of subsection 1 of section 39-21-46.

SECTION 2. AMENDMENT. Section 39-06.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06.1-09. "Moving violation" defined. For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a violation of section 39-04-22; subsection 1 of section 39-04-37; section 39-04-55; 39-06-01; 39-06-14; 39-06-16; 39-09-04.1; 39-09-09; 39-12-04; 39-12-05; 39-12-06; 39-12-09; 39-24-02; or 39-24-09, except subdivisions b and c of subsection 5, or equivalent ordinances; or a violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except sections 39-21-44, 39-21-45.1, 39-21-46, and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

SECTION 3. AMENDMENT. Paragraph 9 of subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- (9) Except as provided in section sections 39-21-44 and 39-21-45.1, 2 points  
 knowingly drove with defective, non-existent, or unlawful equipment in violation of subsection 1 of section 39-21-46, or equivalent ordinances

SECTION 4. Two new paragraphs to subdivision b of subsection 3 of section 39-06.1-10 of the North Dakota Century Code are hereby created and enacted to read as follows:

Knowingly failing to display a placard or flag, in violation of any rule implementing section 39-21-44, while transporting explosive or hazardous materials 2 points

Except as provided in paragraph 9 of subdivision a of this subsection, knowingly operating an unsafe vehicle in violation of subsection 1 of section 39-21-46 2 points

SECTION 5. AMENDMENT. Section 39-07-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-09. Offenses under which person halted may not be entitled to release upon promise to appear. Section 39-07-07 does not apply to a person if:

1. The halting officer has good reason to believe the person guilty of any felony or if the person is halted and charged with an offense listed in section 39-06.1-05 but not listed in subsection 2; or
2. The halting officer, acting within the officer's discretion, determines that it is inadvisable to release the person upon a promise to appear and if the person has been halted and charged with any of the following offenses:
  - a. Reckless driving.
  - b. Driving in excess of speed limitations established by the state or by local authorities in their respective jurisdictions.
  - c. Driving while license or driving privilege is suspended or revoked for violation of section 39-06-42, or an equivalent ordinance.
  - d. Operating a modified vehicle.
  - e. Driving without liability insurance in violation of section 39-08-20.
  - f. Failing to display a placard or flag, in violation of any rule implementing section 39-21-44, while transporting explosive or hazardous materials.
  - g. Operating an unsafe vehicle in violation of subsection 1 of section 39-21-46.

The halting officer forthwith shall take any person not released upon a promise to appear before the nearest or most accessible magistrate.

SECTION 6. AMENDMENT. Section 39-21-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-09. Color of clearance lamps, side marker lamps, backup lamps, and reflectors.

1. Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle must display or reflect an amber color.
2. Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle must display or reflect a red color.
3. All lighting devices and reflectors mounted on the rear of any vehicle must display or reflect a red color, except that the light illuminating the license plate must be white and the light emitted by a backup lamp must be white or amber.
4. Any person who violates this section must be assessed a fee of ten dollars for each offense.

SECTION 7. AMENDMENT. Subsection 1 of section 39-21-46 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. It is unlawful for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which the actor knows to be in such unsafe condition as to endanger any person, or which the actor knows does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this chapter, or which the actor knows is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this chapter. ~~Any person who violates any of the provisions of section 39-21-08, 39-21-09, 39-21-10, or 39-21-14 must be assessed a fee of ten dollars. Any~~ Unless otherwise specifically provided in this chapter or in section 39-06.1-08 or 39-06.1-09, any person who, in violation of this chapter, drives, or any owner who causes or knowingly permits to be driven upon a highway, any vehicle or combination of vehicles which that person knows is unsafe or improperly equipped is guilty of an infraction.

Approved March 9, 1989  
Filed March 9, 1989

464  
Secs. 1, 2  
R. M.  
Disapproved

## CHAPTER 464

SENATE BILL NO. 2316

Senators Redlin, Wogsland, Nalewaja)  
(Representatives Rydell, Scherber)

### SEATBELTS

AN ACT to create and enact a new subsection to section 39-06.1-06 and a new section to chapter 39-21 of the North Dakota Century Code, relating to the required use of safety belts in certain motor vehicles; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-06.1-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

For a violation of section 2 of this Act, a fee not to exceed twenty dollars.

SECTION 2. A new section to chapter 39-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

Use of safety belts required in certain motor vehicles - Enforcement. Except as otherwise provided in this Act, no driver may operate a motor vehicle designed for carrying fewer than eleven passengers, which was originally manufactured with safety belts, upon a highway, unless each front seat occupant is wearing a properly adjusted and fastened safety belt. This section does not apply to the driver of a vehicle in which all remaining front seat safety belts are in use by other front seat occupants of the vehicle, to a child in a child restraint or seatbelt in accordance with section 39-21-41.2, to drivers of implements of husbandry, or to rural mail carriers while on duty delivering mail. From the effective date of this Act until December 31, 1990, only warning tickets may be issued for a violation of this section.

Approved April 11, 1989  
Filed April 12, 1989

## CHAPTER 465

SENATE BILL NO. 2374  
(Senators D. Meyer, Robinson)  
(Representatives Murphy, Tomac)

### DUI LICENSE RESTRICTIONS

AN ACT to amend and reenact subsection 2 of section 39-06.1-11 of the North Dakota Century Code, relating to temporary restricted licenses and ignition interlock devices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-06.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If the licensing authority has suspended a license under chapter 39-20, or after a violation of section 39-08-01 or equivalent ordinance, the authority may, in accordance with this section, for good cause, and upon written application of the offender, issue a temporary restricted license which takes effect after thirty days of the suspension have been served after a first offense under section 39-08-01 or chapter 39-20. The licensing authority may not issue a temporary restricted license to any offender whose operator's license is under suspension upon a second or subsequent offense under section 39-08-01 or chapter 39-20, except that a temporary restricted license may be issued for good cause if no offenses have been committed for a period of two years before the date of the filing of a written application accompanied by a report from an addiction facility. The commissioner may conduct a hearing for the purposes of obtaining information, reports, and evaluations from courts, law enforcement, and citizens to determine the offender's conduct and driving behavior for the two-year period. The commissioner may also require that an ignition interlock device be installed in the offender's vehicle. The licensing authority may not issue a temporary restricted license for a period of license revocation or suspension imposed under subsection 5 of section 39-06-17, section 39-06-31, subsection 3.1 of section 39-06.1-10, or section 39-20-04, or imposed for an alcohol-related offense under section 39-06-43. A temporary restricted license may be issued for suspensions ordered under subsection 7 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct, but no temporary restricted license may be issued for suspensions ordered under subsection 4 of section 39-06-32.

Approved March 22, 1989  
Filed March 23, 1989

## CHAPTER 466

SENATE BILL NO. 2502  
(Senators Freborg, Naaden)  
(Representatives Melby, O. Hanson, Myrdal)

### REPEAT ALCOHOL TRAFFIC OFFENDER SANCTIONS

AN ACT to create and enact a new section to chapter 39-08 of the North Dakota Century Code, relating to the installation of ignition interlock devices, and the seizure, forfeiture, and sale of motor vehicles for alcohol-related traffic offenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

Alcohol-related traffic offenses - Ignition interlock devices and the seizure, forfeiture, and sale of motor vehicles. A motor vehicle owned and operated by a person upon a highway or upon public or private areas to which the public has a right of access for vehicular use may be seized, forfeited, and sold or otherwise disposed of pursuant to an order of the court at the time of sentencing if the person is in violation of section 39-08-01 or an equivalent ordinance and has been convicted of violating section 39-08-01 or an equivalent ordinance at least three times within the five years preceding the violation. The court may also require that an ignition interlock device be installed in the person's vehicle for a period of time that the court deems appropriate.

Approved April 13, 1989  
Filed April 13, 1989

## CHAPTER 467

HOUSE BILL NO. 1654  
(Representatives Oban, Soukup)  
(Senator Krebsbach)

**ALCOHOL IN A PUBLIC CONVEYANCE**

AN ACT to amend and reenact section 39-08-18 of the North Dakota Century Code, relating to the open bottle law.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-08-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-18. Open bottle law - Penalty. ~~No~~

1. A person may not drink or consume alcoholic beverages, as defined in section 5-01-01, in or on any motor vehicle when ~~such~~ the vehicle is upon a public highway or in an area used principally for public parking. ~~No~~ A person may not have in his possession on his person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing ~~such~~ alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It is unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle is kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment must be deemed to be within the area occupied by the driver and passengers. ~~The provisions of this section do~~ This subsection does not prohibit the consumption or possession of alcoholic beverages in a house car, as defined by subsection 25 of section 39-01-01, if the consumption or possession occurs in the area of the house car used as sleeping or living quarters and that area is separated from the driving compartment by a solid partition, door, curtain, or some similar means of separation; however, consumption is not authorized while the house car is in motion. Any person violating ~~the provisions of this section~~ subsection must be assessed a fee of fifty dollars; however, the licensing authority may not record the violation against the person's driving record ~~of such person~~ unless ~~he~~ the person was the driver of the ~~automobile~~ motor vehicle at the time that the violation occurred.

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

Approved March 29, 1989  
Filed March 30, 1989



## CHAPTER 468

HOUSE BILL NO. 1242  
(Marks, L. Hanson, Gorman, J. DeMers, Belter)

### DRIVING WITHOUT LIABILITY INSURANCE

AN ACT to amend and reenact section 39-08-20 of the North Dakota Century Code, relating to driving without liability insurance; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-08-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-20. Driving without liability insurance prohibited - Penalty. A person may not drive a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law or during the investigation of an accident, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence of the policy required under this section. If unable to comply with the request, that person may not be charged with a violation of this section if that person submits such evidence to the officer or the officer's agency within twenty days of the date of the request. Violation of this section is a class B misdemeanor and the sentence imposed must include a fine of at least one hundred fifty dollars.

Approved March 14, 1989  
Filed March 15, 1989

## CHAPTER 469

SENATE BILL NO. 2378  
(Senators Stromme, Nelson)  
(Representatives Kaldor, Graba)

### LOCAL SPEED LIMIT ALTERATION

AN ACT to amend and reenact subsection 1 of section 39-09-03 of the North Dakota Century Code, relating to alteration of speed limits by local authorities; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Whenever local authorities in their respective jurisdictions, on the basis of an engineering and traffic investigation, determine that the maximum speed permitted under this title is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which:
  - a. Decreases the limit at intersections;
  - b. Increases the limit within an urban district but not to more than fifty-five miles [88.51 kilometers] per hour; or
  - c. Decreases the limit outside an urban district, ~~but not to less than thirty five miles [56.33 kilometers] per hour.~~

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 13, 1989  
Filed April 13, 1989

## CHAPTER 470

SENATE BILL NO. 2292  
(Senator Nalewaja)  
(Representatives R. Berg, Bernstein)

### HAZARDOUS CONDITION ROAD CLOSING

AN ACT to amend and reenact section 39-10-21.1 of the North Dakota Century Code, relating to closing roads because of hazardous conditions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-10-21.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-21.1. Closing road because of hazardous conditions - Posting of official traffic-control devices - Entering closed road prohibited. The highway patrol or local law enforcement authorities having jurisdiction over a road may close a road temporarily due to hazardous conditions ~~if that closing is necessary~~ for the protection and safety of the public. If such a closing is made, the authority ordering the closing shall make every reasonable attempt to notify the public and, ~~conditions permitting when practical, may~~ post appropriate official traffic-control devices to advise motorists of the closing. ~~Each operator of~~ No person, while operating a motor vehicle shall obey the traffic control device, may knowingly enter a road closed under this section.

Approved April 12, 1989  
Filed April 13, 1989

## CHAPTER 471

HOUSE BILL NO. 1631  
(Gerntholz, V. Olson, Halmrast)

**SCHOOLBUSES AND RAILROAD CROSSINGS**

AN ACT to create and enact a new subsection to section 39-10-46 of the North Dakota Century Code, relating to signs on schoolbuses that stop at railroad crossings; and to amend and reenact subsection 1 of section 39-10-43 of the North Dakota Century Code, relating to vehicles required to stop at railroad crossings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-10-43 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The driver of a bus carrying passengers, or of any schoolbus ~~carrying any schoolchild~~, or of any vehicle carrying any chlorine, empty or loaded cargo tank vehicles used to transport dangerous articles or any liquid having a flashpoint below two hundred degrees Fahrenheit [93.33 degrees Celsius], cargo tank vehicles transporting a commodity having a temperature above its flashpoint at the time of loading, certain cargo tank vehicles transporting commodities under special permits issued by the hazardous materials regulations board, and every motor vehicle which must have the following placards: "explosives", "poison", "flammable oxidizers", "compressed gas", "corrosives", "flammable gas", "radioactive", or "dangerous", before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet [15.24 meters] but not less than fifteen feet [4.57 meters] from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train and may not proceed until ~~he~~ the driver can do so safely. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing such crossing and the driver may not manually shift gears while crossing the track or tracks.

SECTION 2. A new subsection to section 39-10-46 of the North Dakota Century Code is hereby created and enacted to read as follows:

Every schoolbus must bear on the rear of the bus a plainly visible sign containing the words "THIS SCHOOLBUS STOPS AT ALL RAILROAD CROSSINGS."

Approved April 10, 1989  
Filed April 11, 1989

## CHAPTER 472

SENATE BILL NO. 2437  
(Senators O'Connell, Tennefos, Hilken)  
(Representatives Timm, Smette, Gilmore)

### HIGHWAY VEHICLE SIZE LIMITS

AN ACT to amend and reenact subdivision b of subsection 1, subdivision b of subsection 2, and subdivision f of subsection 3 of section 39-12-04 of the North Dakota Century Code, relating to width and height exemptions for implements of husbandry and length limitations for towed vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision b of subsection 1 of section 39-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. Implements of husbandry being moved by resident farmers, ranchers, ~~or dealers, or manufacturers~~ between sunrise and sunset. Furthermore, the limitation does not apply to implements of husbandry being moved between sunset and sunrise by resident farmers, ranchers, ~~or dealers, or manufacturers~~ on public state, county, or township highway systems other than interstate highway systems.

SECTION 2. AMENDMENT. Subdivision b of subsection 2 of section 39-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. The limitation in subdivision a does not apply to vehicles that are at most fifteen feet six inches [4.72 meters] high when all of the following apply:
- (1) The vehicle is an implement of husbandry and is being moved by a resident farmer, rancher, ~~or dealer, or manufacturer.~~
  - (2) The trip is at most forty miles [64.40 kilometers].
  - (3) The trip is between sunrise and sunset.
  - (4) None of the trip is on an interstate highway.

SECTION 3. AMENDMENT. Subdivision f of subsection 3 of section 39-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- f. The length of a trailer or semitrailer, including the load thereon, may not exceed fifty-three feet [16.15 meters] except that trailers and semitrailers titled and registered in North Dakota prior to July 1, 1987, and towed vehicles may not exceed a length of sixty feet [18.29 meters].

Approved March 28, 1989  
Filed March 28, 1989

## CHAPTER 473

HOUSE BILL NO. 1351  
(Representatives Frey, Dorso)  
(Senator Hilken)

### DRIVER'S RECORD ABSTRACTS

AN ACT to amend and reenact section 39-16-03 of the North Dakota Century Code, relating to driver's record abstracts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Section 39-16-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16-03. Abstract - Not admissible in evidence - Fee. The commissioner upon request shall furnish any person a certified abstract of the operating record of any person subject to the provisions of this chapter which must include the convictions, adjudications, and admissions of commission of traffic offenses of any driver and suspensions, revocations, and restrictions of a person's driving privileges. Any person, except law enforcement or judicial officers functioning in their official capacity, requesting the abstract shall indicate in writing the reason for the request and shall identify the person or firm for whom or which the request is made and the intended recipient of the abstract.

Copies of abstracts are not admissible as evidence in any civil or criminal trial arising out of a motor vehicle accident.

A fee of two dollars must be paid for each abstract of any operating record. The commissioner shall send an additional copy of the abstract to the driver whose abstract was requested, accompanied by a statement identifying the person making the request, identifying the person or firm for whom or which the request is made, identifying the intended recipient of the abstract, and providing the reason for the request. No abstract or statement may be sent to a driver where the request for the driver's abstract was made by the federal bureau of investigation or the United States central intelligence agency, or their agents, or by any law enforcement agency of this state, or of its political subdivisions.

Approved April 13, 1989  
Filed April 13, 1989

\* NOTE: Section 39-16-03 was also amended by section 6 of House Bill No. 1172, chapter 460.

## CHAPTER 474

HOUSE BILL NO. 1176  
(Committee on Transportation)  
(At the request of the Highway Department)

### **BANKRUPTCY EFFECT ON MOTOR VEHICLE FINANCIAL REQUIREMENTS**

AN ACT to amend and reenact section 39-16.1-04 of the North Dakota Century Code, relating to bankruptcy not relieving a judgment debtor for motor vehicle financial requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-16.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16.1-04. Suspension of license - Temporary release.

1. The commissioner, upon receipt of a certified copy of a judgment or a certified copy of the docket entries in an action resulting in a judgment for damages or a certificate of facts relative to a judgment on a form provided by the commissioner, shall forthwith suspend the license or operating privilege, of any person against whom such judgment was rendered except as hereinafter otherwise provided in this section and in section 39-16.1-06.
2. If the judgment creditor consents in writing, in such form as the commissioner may prescribe that the judgment debtor be allowed license or nonresident's operating privilege, the same may be allowed by the commissioner, in his discretion, for six months from the date of such consent and thereafter until such consent is revoked in writing, notwithstanding default in the payment of such judgment, or of any installments thereof prescribed in section 39-16.1-06 provided the judgment debtor furnishes proof of financial responsibility.
3. Any person whose license or nonresident's operating privilege has been suspended or is about to be suspended or will become subject to suspension under this chapter may be relieved from the effect of the judgment as prescribed in this chapter by filing with the commissioner an affidavit stating that at the time of the accident upon which the judgment has been rendered the affiant was insured, that the insurer is liable to pay the judgment, and the reason, if known, why the insurer has not paid the judgment. That person shall also file the original or a copy of the insurance policy, if available, and any other documents the commissioner may require to show that the loss, injury, or damage for which the judgment was rendered, was covered by the insurance policy. If the commissioner is satisfied from such papers that the insurer was authorized to issue the insurance policy at the time and place of issuing the policy and that the insurer is liable to pay the judgment, at least

to the extent and for the amounts required in this chapter, the commissioner may not suspend the license or nonresident's operating privilege, or if already suspended shall reinstate them.

4. A license or nonresident's operating privilege must remain suspended and may not be renewed, nor may any such license be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is satisfied in full or to the extent hereinafter provided and until the said person gives proof of financial responsibility subject to the exemptions stated in sections 39-16.1-04 and 39-16.1-06.
5. ~~A discharge in bankruptcy following the rendering of any such judgment does not relieve the judgment debtor from any of the requirements of this chapter.~~

Approved March 9, 1989  
Filed March 9, 1989



## CHAPTER 475

HOUSE BILL NO. 1331  
(Representatives Tollefson, Skjerven)  
(Senators Mutch, Krebsbach)

### LPG TRANSPORTERS FINANCIAL RESPONSIBILITY

AN ACT to create and enact chapter 39-16.2 of the North Dakota Century Code, relating to financial responsibility requirements for liquified petroleum gas transporters; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 39-16.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-16.2-01. Definitions. As used in this chapter:

1. "Dealer" means any person in the business of handling liquified petroleum gas who delivers or sells any liquified petroleum gas to any retail dealer or user of liquified petroleum gas.
2. "Liquified petroleum gas" includes any material that is composed predominantly of any of the following hydrocarbons or mixtures of the following hydrocarbons: propane, propylene, butanes (normal butane and isobutane), and butylenes.

39-16.2-02. Liquified petroleum gas transporters - Financial responsibility requirements. A dealer who owns or operates a vehicle used for the transportation of liquified petroleum gas shall maintain motor vehicle liability insurance of:

1. At least five million dollars for the transportation of liquified petroleum gas transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities of three thousand five hundred water gallons [13248.94 liters] or more;
2. At least one million dollars for the transportation of liquified petroleum gas transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities of less than three thousand five hundred water gallons [13248.94 liters].

39-16.2-03. Maintenance and certification of financial requirements - Verification. A dealer subject to the financial responsibility requirements of this chapter shall maintain the liability insurance prescribed in section 39-16.2-02 which obligates the dealer to pay compensation for injuries to persons and for loss or damage to property by reason of the ownership, maintenance, or use of the covered vehicle. The commissioner may require dealers subject to the financial responsibility requirements of this chapter to certify the existence of financial responsibility in the form and at the times required by the commissioner. The commissioner may forward the

certification to the named insurer to determine if the certification is correct. No civil liability may accrue to the insurer or any of its employees for reports made to the commissioner if the reports are made in good faith based upon the most recent information to the insurer.

39-16.2-04. Self-insurance. The commissioner may allow a dealer to fully or partially self-insure motor vehicles as required by this chapter if the dealer provides financial data the commissioner requires and the commissioner determines that the financial data demonstrates that the dealer is sufficiently stable and solvent to fully or partially self-insure. The commissioner shall authorize self-insurance subject to reasonable provisions for the filing of periodic financial statements demonstrating no substantial deterioration of financial stability.

39-16.2-05. Penalties. A dealer subject to the financial responsibility requirements of this chapter who operates or causes to be operated a motor vehicle in this state without meeting the financial responsibility requirements of this chapter is guilty of a class B misdemeanor. A dealer subject to the financial responsibility requirements of this chapter who operates or causes to be operated a motor vehicle in this state without meeting the financial responsibility requirements of this chapter if the vehicle is involved in an accident is guilty of a class A misdemeanor. The department may refuse to issue the registration for a vehicle or may cancel the registration of a vehicle owned or operated by a person who does not comply with the requirements of this chapter.

Approved March 29, 1989  
Filed March 30, 1989

## CHAPTER 476

SENATE BILL NO. 2131  
(Committee on Judiciary)  
(At the request of the Motor Vehicle Department)

### MOBILE HOME AND TRAILER DEALER VIOLATIONS

AN ACT to amend and reenact sections 39-18-07 and 39-22.1-04 of the North Dakota Century Code, relating to penalties for violating mobile home and trailer dealer licensing laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-18-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-18-07. Penalty. Any person who violates the provisions of this chapter is guilty of an infraction a class B misdemeanor.

SECTION 2. AMENDMENT. Section 39-22.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-22.1-04. Penalty. Any person who violates the provisions of this chapter is guilty of an infraction a class B misdemeanor.

Approved April 12, 1989  
Filed April 13, 1989

## CHAPTER 477

SENATE BILL NO. 2128  
(Committee on Transportation)  
(At the request of the Motor Vehicle Department)

### INTERNATIONAL VEHICLE REGISTRATION PLAN

AN ACT to amend and reenact section 39-19-04 of the North Dakota Century Code, relating to the international registration plan.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-19-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-19-04. International registration plan - Multistate reciprocal agreement - Change of state agency. The North Dakota state highway department, or the designated agency of the department acting directly or through the department, which has joined the international registration plan and multistate reciprocal agreement shall transfer such membership to the department of motor vehicles. The department of motor vehicles is authorized to expend the necessary fees required for membership. The provisions of the international registration plan, including any amendment to the plan, as agreed to by the department, are applicable to those vehicles engaged in interstate travel which are apportioned in North Dakota. The department may enforce and collect all penalties and fines allowed by the provisions of the international registration plan.

Approved April 14, 1989  
Filed April 17, 1989

## CHAPTER 478

SENATE BILL NO. 2238  
(Committee on Judiciary)  
(At the request of the Highway Department)

## DUI LAW ENFORCEMENT ACTIONS

AN ACT to amend and reenact sections 39-20-01, 39-20-03.1, 39-20-04, and subsection 1 of section 39-20-04.1 of the North Dakota Century Code, relating to juvenile custody under implied consent, taking possession of operators' licenses on arrest for alcohol offenses, and reports on arrest to the highway commissioner.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-20-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-01. Implied consent to determine alcoholic and drug content of blood. Any person who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state is deemed to have given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of the blood, breath, saliva, or urine for the purpose of determining the alcoholic, other drug, or combination thereof, content of the blood. As used in this chapter the word "drug" means any drug or substance or combination of drugs or substances which renders a person incapable of safely driving, and the words "chemical test" or "chemical analysis" mean any test to determine the alcoholic, or other drug, or combination thereof, content of the blood, breath, saliva, or urine, approved by the state toxicologist under this chapter. The test or tests must be administered at the direction of a law enforcement officer only after placing the person, except persons mentioned in section 39-20-03, under arrest and informing that person that the person is or will be charged with the offense of driving or being in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of this chapter, the taking into custody of a child under section 27-20-13 satisfies the requirement of an arrest. The arresting law enforcement officer shall also inform the person charged that refusal of the person to submit to the test determined appropriate will result in a revocation for up to three years of the person's driving privileges. The arresting law enforcement officer shall determine which of the tests is to be used. When a child is taken into custody for violating section 39-08-01 or an equivalent ordinance, the law enforcement officer shall diligently attempt to contact the child's parent or legal guardian to explain the cause for the custody and the implied consent chemical testing requirements. Neither the law enforcement officer's efforts to contact, nor any consultation with, a parent or legal guardian may be permitted to interfere with the administration of chemical testing requirements under this chapter.

SECTION 2. AMENDMENT. Section 39-20-03.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-03.1. Action following test result for a resident operator. If a person submits to a test under section 39-20-01, 39-20-02, or 39-20-03 and the test shows that person to have a blood alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle, the following procedures apply:

1. The law enforcement officer shall immediately take possession of the person's operator's license if it is then available and shall immediately issue to that person a temporary operator's permit if the person then has valid operating privileges, extending driving privileges for the next twenty-five days, or until earlier terminated by the decision of a hearing officer under section 39-20-05. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the commissioner's official notification to the person of the commissioner's intent to revoke, suspend, or deny driving privileges in this state.
2. If a test administered under section 39-20-01 or 39-20-03 was by saliva or urine sample or by drawing blood as provided in section 39-20-02 and the person tested is not a resident of an area in which the law enforcement officer has jurisdiction, the law enforcement officer shall, on receiving the analysis of the saliva, urine, or blood from the state toxicologist and if the analysis shows that person had a blood alcohol concentration of at least ten one-hundredths of one percent by weight, either proceed in accordance with subsection 1 during that person's reappearance within the officer's jurisdiction or notify a law enforcement agency having jurisdiction where the person lives. On that notification, that law enforcement agency shall immediately take possession of the person's North Dakota operator's license or permit if it is then available and, within twenty-four hours, forward the license and a copy of the temporary operator's permit to the arresting officer law enforcement agency making the arrest or to the commissioner. The law enforcement agency shall also, on taking possession of the person's operator's license, issue to that person a temporary operator's permit as provided in this section, and shall sign and date the permit as provided in subsection 1. The temporary operator's permit serves as the commissioner's official notification to the person of the commissioner's intent to revoke, suspend, or deny driving privileges in this state.
3. The arresting law enforcement officer, within five days of the issuance of the temporary operator's permit, shall forward to the commissioner a certified written report in the form required by the commissioner and the person's operator's license taken under subsection 1 or 2. If the person was issued a temporary operator's permit because of the results of a test, the report must show that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01, or equivalent ordinance, that the person was lawfully arrested, that the person was tested for blood alcohol concentration under this chapter, and that the results of

the test show that the person had a blood alcohol concentration of at least ten one-hundredths of one percent by weight. In addition to the operator's license and report, the law enforcement officer shall forward to the commissioner a certified copy of the operational checklist and test records of a breath test and a copy of the certified copy of the analytical report for a blood, saliva, or urine test for all tests administered at the direction of the officer.

\* SECTION 3. AMENDMENT. Section 39-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-04. Revocation of privilege to drive motor vehicle upon refusal to submit to testing. If a person refuses to submit to testing under section 39-20-01 or 39-20-14, none may be given, but the law enforcement officer shall immediately take possession of the person's operator's license if it is then available and shall immediately issue to that person a temporary operator's permit, if the person then has valid operating privileges, extending driving privileges for the next twenty-five days or until earlier terminated by a decision of a hearing officer under section 39-20-05. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the commissioner's official notification to the person of the commissioner's intent to revoke driving privileges in this state and of the hearing procedures under this chapter. The commissioner, upon the receipt of that person's operator's license and a certified written report of the law enforcement officer in the form required by the commissioner, forwarded by the officer within five days after issuing the temporary operator's permit, showing that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01 or equivalent ordinance or, for purposes of section 39-20-14, had reason to believe that the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol, that the person was lawfully arrested if applicable, and that the person had refused to submit to the test or tests under section 39-20-01 or 39-20-14, shall revoke that person's license or permit to drive and any nonresident operating privilege for the appropriate period under this section, or if the person is a resident without a license or a permit to operate a motor vehicle in this state, the commissioner shall deny to the person the issuance of a license or permit for the appropriate period under this section after the date of the alleged violation, subject to the opportunity for a prerevocation hearing and postrevocation review as provided in this chapter. In the revocation of the person's operator's license the commissioner shall give credit for time in which the person was without an operator's license after the day of the person's refusal to submit to the test except that the commissioner may not give credit for time in which the person retained driving privileges through a temporary operator's permit issued under this section or section 39-20-03.2. The period of revocation or denial of issuance of a license or permit under this section is:

1. One year if the person's driving record shows that within the five years preceding the most recent violation of this section, the person's operator's license has not previously been suspended, revoked, or issuance denied for a violation of this chapter or section 39-08-01 or equivalent ordinance.

\* NOTE: Section 39-20-04 was also amended by section 1 of House Bill No. 1595, chapter 479.

2. Two years if the person's driving record shows that within the five years preceding the most recent violation of this section, the person's operator's license has been once previously suspended, revoked, or issuance denied for a violation of this chapter or section 39-08-01 or equivalent ordinance.
3. Three years if the person's driving record shows that within the five years preceding the most recent violation of this section, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination thereof, and the suspensions, revocations, or denials resulted from at least two separate arrests.

SECTION 4. AMENDMENT. Subsection 1 of section 39-20-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. After the receipt of a person's operator's license, if taken under section 39-20-03.1 or 39-20-03.2, and the ~~sworn~~ certified report of a law enforcement officer and if no written request for hearing has been received from the arrested person under section 39-20-05, or if that hearing is requested and the findings, conclusion, and decision from the hearing confirm that the law enforcement officer had reasonable grounds to arrest the person and test results show that the arrested person was driving or in physical control of a vehicle while having a blood alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a test within two hours after driving or being in physical control of a motor vehicle, the commissioner shall suspend the person's operator's license as follows:
  - a. For ninety-one days if the person's driving record shows that, within the five years preceding the date of the arrest, the person has not previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has not previously been suspended or revoked under this chapter.
  - b. For three hundred sixty-four days if the person's driving record shows that, within the five years preceding the date of the arrest, the person has once previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has once previously been suspended or revoked under this chapter.
  - c. For two years if the person's driving record shows that within the five years preceding the date of the arrest, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination thereof, and the suspensions, revocations, or denials resulted from at least two separate arrests.

Approved April 13, 1989  
Filed April 13, 1989



## CHAPTER 479

HOUSE BILL NO. 1595  
(Representatives Tomac, Shaft)  
(Senator Maxson)

### ALCOHOL SCREENING TEST REFUSAL

AN ACT to amend and reenact section 39-20-04, subsection 1 of section 39-20-05, and section 39-20-14 of the North Dakota Century Code, relating to pleading guilty to avoid a section 39-20-04 revocation, performing a chemical test after refusing a screening test to avoid a section 39-20-04 revocation, and the temporary operator's permit serving notice to driver.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Section 39-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-04. Revocation of privilege to drive motor vehicle upon refusal to submit to testing.

1. If a person refuses to submit to testing under section 39-20-01 or 39-20-14, none may be given, but the law enforcement officer shall immediately take possession of the person's operator's license and shall immediately issue to that person a temporary operator's permit, if the person then has valid operating privileges, extending driving privileges for the next twenty-five days or until earlier terminated by a decision of a hearing officer under section 39-20-05. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the commissioner's official notification to the person of the commissioner's intent to revoke driving privileges in this state and of the hearing procedures under this chapter. The commissioner, upon the receipt of that person's operator's license and a certified written report of the law enforcement officer in the form required by the commissioner, forwarded by the officer within five days after issuing the temporary operator's permit, showing that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01 or equivalent ordinance or, for purposes of section 39-20-14, had reason to believe that the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol, that the person was lawfully arrested if applicable, and that the person had refused to submit to the test or tests under section 39-20-01 or 39-20-14, shall revoke that person's license or permit to drive and any nonresident operating privilege for the appropriate period under this section, or if the person is a

\* NOTE: Section 39-20-04 was also amended by section 3 of Senate Bill No. 2238, chapter 478.

resident without a license or a permit to operate a motor vehicle in this state, the commissioner shall deny to the person the issuance of a license or permit for the appropriate period under this section after the date of the alleged violation, subject to the opportunity for a prerevocation hearing and postrevocation review as provided in this chapter. In the revocation of the person's operator's license the commissioner shall give credit for time in which the person was without an operator's license after the day of the person's refusal to submit to the test except that the commissioner may not give credit for time in which the person retained driving privileges through a temporary operator's permit issued under this section or section 39-20-03.2. The period of revocation or denial of issuance of a license or permit under this section is:

- ~~1-~~
  - a. One year if the person's driving record shows that within the five years preceding the most recent violation of this section, the person's operator's license has not previously been suspended, revoked, or issuance denied for a violation of this chapter or section 39-08-01 or equivalent ordinance.
  - ~~2-~~ b. Two years if the person's driving record shows that within the five years preceding the most recent violation of this section, the person's operator's license has been once previously suspended, revoked, or issuance denied for a violation of this chapter or section 39-08-01 or equivalent ordinance.
  - ~~3-~~ c. Three years if the person's driving record shows that within the five years preceding the most recent violation of this section, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination thereof, and the suspensions, revocations, or denials resulted from at least two separate arrests.
2. A person's driving privileges are not subject to revocation under this section if all of the following criteria are met:
  - a. No administrative hearing request is made under section 39-20-05;
  - b. The person mails an affidavit to the commissioner within ten days after the temporary operator's permit is issued. The affidavit must state that the person:
    - (1) Intends to voluntarily plead guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
    - (2) Agrees that the person's driving privileges must be suspended as provided under section 39-06.1-10;
    - (3) Acknowledges the right to a section 39-20-05 administrative hearing and section 39-20-06 judicial review and voluntarily and knowingly waives these rights; and

- (4) Agrees that the person's driving privileges must be revoked as provided under this section without an administrative hearing or judicial review, if the person does not plead guilty within twenty-five days after the temporary operator's permit is issued, or the court does not accept the guilty plea, or the guilty plea is withdrawn.
- c. The person pleads guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
- d. The court accepts the person's guilty plea and a notice of that fact is mailed to the commissioner within twenty-five days after the temporary operator's permit is issued; and
- e. A copy of the final order or judgment of conviction evidencing the acceptance of the person's guilty plea is received by the commissioner prior to the return or reinstatement of the person's driving privileges.
3. The court must mail a copy of an order granting a withdrawal of a guilty plea to violating section 39-08-01, or equivalent ordinance, to the commissioner within ten days after it is ordered. Upon receipt of the order, the commissioner shall immediately revoke the person's driving privileges as provided under this section without providing an administrative hearing.

SECTION 2. AMENDMENT. Subsection 1 of section 39-20-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Before issuing an order of suspension, revocation, or denial under section 39-20-04 or 39-20-04.1, the commissioner shall afford that person an opportunity for a hearing if the person mails a request for the hearing to the commissioner within ten days after the date of issuance of the temporary operator's permit. The hearing must be held within twenty-five days after the date of issuance of the temporary operator's permit, but the hearing officer may extend the hearing to within thirty-five days after the issuance of the temporary operator's permit if good cause is shown. If the hearing date is extended beyond twenty-five days from the issuance of the temporary operator's permit, the commissioner shall provide extended temporary operator's privileges to the date of the hearing. If no hearing is requested within the time limits in this section, and no affidavit is submitted within the time limits under subsection 2 of section 39-20-04, the expiration of the temporary operator's permit serves as the commissioner's official notification to the person of the revocation, suspension, or denial of driving privileges in this state.

SECTION 3. AMENDMENT. Section 39-20-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-14. Screening tests. Any person who operates a motor vehicle upon the public highways of this state is deemed to have given consent to submit to an onsite screening test or tests of the person's breath for the purpose of estimating the alcohol content of the person's blood upon the

request of a law enforcement officer who has reason to believe that the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol. A person may not be required to submit to a screening test or tests of breath while at a hospital as a patient if the medical practitioner in immediate charge of the person's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the state toxicologist and according to methods and with devices approved by the state toxicologist. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the person that refusal of the person to submit to a screening test will result in a revocation for up to three years of that person's driving privileges. If such person refuses to submit to such screening test or tests, none may be given, but such refusal is sufficient cause to revoke such person's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available. However, the commissioner must not revoke a person's driving privileges for refusing to submit to a screening test requested under this section if the person provides a sufficient breath, blood, or urine sample for a chemical test requested under section 39-20-01 for the same incident. No provisions of this section may supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except as provided herein. For the purposes of this section, "chemical test operator" means a person certified by the state toxicologist as qualified to perform analysis for alcohol in a person's blood, breath, saliva, or urine.

Approved March 29, 1989  
Filed March 30, 1989

## CHAPTER 480

HOUSE BILL NO. 1657  
(O'Shea, Ness, Ring)

### TINTING OR COVERING VEHICLE WINDOWS

AN ACT to amend and reenact section 39-21-39 of the North Dakota Century Code, relating to restrictions on tinted windows and objects or material placed on automobile windows.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Section 39-21-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-39. Windshield - Must be unobstructed and equipped with wipers - Tinted windows.

1. Every motor vehicle must be equipped with a windshield. No person may drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows which obstructs the driver's clear view of the highway or any intersecting highway.
2. The windshield on every motor vehicle must be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which must be so constructed as to be controlled or operated by the driver of the vehicle.
3. Every windshield wiper upon a motor vehicle must be maintained in good working order.
4. A person may not operate a motor vehicle with any object ~~or any~~ material, ~~or tinting~~ displayed, affixed, or applied on the front windshield ~~or on any side window where that material alters the color or reduces the light transmittance, or reduces the clear and unobstructed view through the windshield or window.~~ This subsection does not apply to windows behind the driver or to tinted windows or windshields in compliance with the federal motor vehicle safety standards No. 205 unless the object, material, or tinting in conjunction with the window or windshield upon which it is displayed, affixed, or applied has a light transmittance of at least seventy percent. This subsection does not apply to windows behind the operator if the motor vehicle is equipped with outside mirrors on both sides that meet the requirements of section 39-21-38, nor to front side windows displaying transparent sunscreening material as authorized by competent medical authority.

Approved April 10, 1989  
Filed April 11, 1989

- \* NOTE: Section 39-21-39 was also amended by section 1 of Senate Bill No. 2347, chapter 481, and section 1 of House Bill No. 1253, chapter 482.

## CHAPTER 481

SENATE BILL NO. 2347  
(Heinrich)

### MOTOR VEHICLE WINDOW SUNSCREENING

AN ACT to amend and reenact section 39-21-39 of the North Dakota Century Code, relating to tinted windows and suncreening devices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\*SECTION 1. AMENDMENT. Section 39-21-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-39. Windshield - Must be unobstructed and equipped with wipers - Tinted or screened windows.

1. Every motor vehicle must be equipped with a windshield. No person may drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows which obstructs the driver's clear view of the highway or any intersecting highway.
2. The windshield on every motor vehicle must be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which must be so constructed as to be controlled or operated by the driver of the vehicle.
3. Every windshield wiper upon a motor vehicle must be maintained in good working order.
4. A person may not operate a motor vehicle with any object or any material displayed, affixed, or applied on the front windshield or on any side window where that material alters the color or reduces the light transmittance, or reduces the clear and unobstructed view through the windshield or window. This subsection does not apply to windows behind the driver or to tinted windows ~~or~~, windshields, or suncreening devices in compliance with the federal motor vehicle safety standards No. 205.

Approved April 12, 1989

Filed April 13, 1989

- \* NOTE: Section 39-21-39 was also amended by section 1 of House Bill No. 1253, chapter 482, and section 1 of House Bill No. 1657, chapter 480.

## CHAPTER 482

HOUSE BILL NO. 1253  
(Representatives A. Olson, D. Olsen, Shide)  
(Senator Vosper)

### WINDSHIELD TINTING

AN ACT to amend and reenact section 39-21-39 of the North Dakota Century Code, relating to an exemption for tinted windshield restrictions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Section 39-21-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-39. Windshield - Must be unobstructed and equipped with wipers - Tinted windows.

1. Every motor vehicle must be equipped with a windshield. No person may drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows which obstructs the driver's clear view of the highway or any intersecting highway.
2. The windshield on every motor vehicle must be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which must be so constructed as to be controlled or operated by the driver of the vehicle.
3. Every windshield wiper upon a motor vehicle must be maintained in good working order.
4. A person may not operate a motor vehicle with any object or any material displayed, affixed, or applied on the front windshield or on any side window where that material alters the color or reduces the light transmittance, or reduces the clear and unobstructed view through the windshield or window. This subsection does not apply to windows behind the driver, to front side windows displaying transparent sunscreening material as authorized by competent medical authority, or to tinted windows or windshields in compliance with the federal motor vehicle safety standards No. 205.

Approved March 14, 1989  
Filed March 15, 1989

\* NOTE: Section 39-21-39 was also amended by section 1 of House Bill No. 1657, chapter 480, and section 1 of Senate Bill No. 2347, chapter 481.

## CHAPTER 483

HOUSE BILL NO. 1575  
(Kolbo)

**MOTOR VEHICLE DEALER BONDS**

AN ACT to amend and reenact section 39-22-05 of the North Dakota Century Code, relating to motor vehicle dealer bonds; and to provide for application of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-22-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-22-05. Bond required. Before the issuance of a motor vehicle dealer's license, as provided by law, the applicant for ~~such a~~ the license shall furnish a surety bond executed by the applicant as principal and executed by a surety company, licensed and qualified to do business within the state of North Dakota, which bond must run to the state of North Dakota, be in the amount of ~~ten~~ twenty-five thousand dollars and be conditioned upon the faithful compliance by ~~said~~ the applicant as a dealer, if the license ~~be~~ is issued to the dealer, that such dealer will comply with all of the statutes of the state of North Dakota, ~~including this chapter,~~ regulating or being applicable to the business of ~~said~~ the dealer as a dealer in motor vehicles, and indemnifying any person dealing or transacting business with ~~said~~ the dealer in connection with any motor vehicle from any loss or damage occasioned by the failure of ~~such~~ the dealer to comply with any of the provisions of this title, including, ~~but not limited to,~~ the furnishing of a proper and valid certificate of title to the motor vehicle involved in any such transaction, and that ~~such~~ the bond shall be filed with the registrar of motor vehicles prior to the issuance of license provided by law. The aggregate liability of the surety of all persons, however, may in no event exceed the amount of ~~said~~ the bond. Any third party sustaining injury within the terms of the bond may proceed against the principal and surety without making the state a party to ~~any~~ such the proceedings.

SECTION 2. APPLICATION. This Act applies to motor vehicle dealer's licenses issued after December 31, 1989.

Approved March 22, 1989  
Filed March 23, 1989



## CHAPTER 484

SENATE BILL NO. 2435  
(Senators Satrom, Lips, Schoenwald)  
(Representative Myrdal)

**SNOWMOBILE REGISTRATION AND FEES**

AN ACT to amend and reenact section 39-24-03 of the North Dakota Century Code, relating to the registration fee for snowmobiles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Section 39-24-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-24-03. Registration - Application - Issuance - Fees - Renewal. Application for registration must be made to the department in a form as the department shall prescribe and furnish, and must state the name and address of every owner of the snowmobile and be signed by at least one owner. A copy of the application must be carried on the person when operating and shall serve as evidence of registration for a period of not more than thirty days from the date of application.

Upon receipt of the application and the appropriate fee as hereinafter provided, the snowmobile must be registered and a registration number and a certificate of registration assigned. The registration number must be at least ~~two one and one-half~~ inches [~~5.08~~ 3.81 centimeters] in height and of a reflectorized material, and must be securely affixed on each side of the forward half of the snowmobile in such position as to provide clear legibility for identification. The certificate of registration must include information regarding the make, year, serial number, and name and address of the owner.

The fee for registration of each snowmobile must be ~~two~~ three dollars for a registration period of two years beginning January first of each even-numbered year effective January 1, 1980. The fee for initial registration of each snowmobile registered on and after January first of the second year of the two-year registration period must also be ~~two~~ three dollars. The fee for a duplicate or replacement registration number or registration card which is lost, mutilated, or becomes illegible may not exceed ~~two~~ three dollars. In addition, in each year that fees are collected for the unsatisfied judgment fund there must be assessed a fee of one dollar per year for each snowmobile registered, which must be placed in the unsatisfied judgment fund. For each snowmobile registered under the provisions of this chapter, there must be assessed a snowmobile trail tax in the amount of ~~six~~ seventeen dollars.

Every owner of a snowmobile shall renew the registration in a manner as the department shall prescribe, upon payment of the same registration fees provided in this section.

\* NOTE: Section 39-24-03 was also amended by section 1 of Senate Bill No. 2188, chapter 485.

Upon application for registration as prescribed in this section, any snowmobile dealer as defined in section 39-24-01 must be issued registration numbers distinctively marked as dealer's registration numbers upon payment of the appropriate fee as prescribed in this section. The dealer's registration numbers must be used only on snowmobiles owned by the dealership.

Approved March 22, 1989  
Filed March 23, 1989

## CHAPTER 485

SENATE BILL NO. 2188  
(Committee on Transportation)  
(At the request of the Motor Vehicle Department)

### SNOWMOBILE REGISTRATION NUMBERS

AN ACT to amend and reenact section 39-24-03 of the North Dakota Century Code, relating to snowmobile registration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Section 39-24-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-24-03. Registration - Application - Issuance - Fees - Renewal. Application for registration must be made to the department in a form as the department shall prescribe and furnish, and must state the name and address of every owner of the snowmobile and be signed by at least one owner. A copy of the application must be carried on the person when operating and shall serve as evidence of registration for a period of not more than thirty days from the date of application.

Upon receipt of the application and the appropriate fee as hereinafter provided, the snowmobile must be registered and a registration number and a certificate of registration assigned. The registration number must be at least ~~two one and one-half~~ inches [~~5.08~~ 3.81 centimeters] in height and of a reflectorized material, and must be securely affixed on each side of the forward half of the snowmobile in such position as to provide clear legibility for identification. The certificate of registration must include information regarding the make, year, serial number, and name and address of the owner.

The fee for registration of each snowmobile must be two dollars for a registration period of two years beginning January first of each even-numbered year effective January 1, 1980. The fee for initial registration of each snowmobile registered on and after January first of the second year of the two-year registration period must also be two dollars. The fee for a duplicate or replacement registration number or registration card which is lost, mutilated, or becomes illegible may not exceed two dollars. In addition, in each year that fees are collected for the unsatisfied judgment fund there must be assessed a fee of one dollar per year for each snowmobile registered, which must be placed in the unsatisfied judgment fund. For each snowmobile registered under the provisions of this chapter, there must be assessed a snowmobile trail tax in the amount of six dollars.

Every owner of a snowmobile shall renew the registration in a manner as the department shall prescribe, upon payment of the same registration fees provided in this section.

\* NOTE: Section 39-24-03 was also amended by section 1 of Senate Bill No. 2435, chapter 484.

Upon application for registration as prescribed in this section, any snowmobile dealer as defined in section 39-24-01 must be issued registration numbers distinctively marked as dealer's registration numbers upon payment of the appropriate fee as prescribed in this section. The dealer's registration numbers must be used only on snowmobiles owned by the dealership.

Approved March 14, 1989  
Filed March 15, 1989

## CHAPTER 486

HOUSE BILL NO. 1144  
(Committee on Natural Resources)  
(At the request of the North Dakota Parks  
and Recreation Department)

### SNOWMOBILE FUND USES

AN ACT to amend and reenact section 39-24-05 of the North Dakota Century Code, relating to the disposition of snowmobile registration fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-24-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-24-05. Disposition of registration fees. Fees from registration of snowmobiles must be deposited with the state treasurer and credited to the motor vehicle registrar fund. The snowmobile trail tax must be deposited in a state snowmobile fund in the state treasury. The state parks and recreation department may, upon appropriation by the legislative assembly, expend from such fund moneys it deems necessary for purposes of administering snowmobile safety programs and establishing and maintaining snowmobile facilities.

Approved April 10, 1989  
Filed April 11, 1989

## CHAPTER 487

SENATE BILL NO. 2462  
(Senators Heigaard, Lips, Satrom)  
(Representatives Wald, Myrdal)

### SNOWMOBILE FUND

AN ACT to amend and reenact section 39-24-05 of the North Dakota Century Code, relating to the disposition of snowmobile registration and trail tax fees, and providing for an annual transfer of highway tax distribution fund moneys to the snowmobile fund; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-24-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-24-05. Disposition of registration fees and trail tax - Transfer from highway tax distribution fund. Fees from registration of snowmobiles must be deposited with the state treasurer and credited to the motor vehicle registrar fund. The snowmobile trail tax must be deposited in a state snowmobile fund in the state treasury. Additionally, an amount equal to the tax collected on thirty gallons of motor fuel multiplied by the number of snowmobiles registered pursuant to this chapter shall be transferred annually from the highway tax distribution fund, before allocation of the fund under section 54-27-19, and credited to the state snowmobile fund. The state parks and recreation department may, upon appropriation by the legislative assembly, expend from such fund moneys it deems necessary for purposes of administering, establishing, and maintaining snowmobile facilities and programs.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 1991, and after that date is ineffective.

Approved April 28, 1989  
Filed April 28, 1989