

MOTOR VEHICLES

CHAPTER 363

SENATE BILL NO. 2508

(Senators St. Aubyn, DeMers, Mathern)
(Representatives Delmore, Oban, Price)

MOBILITY-IMPAIRED PARKING

AN ACT to amend and reenact subsection 4 of section 39-01-15 of the North Dakota Century Code, relating to parking privileges for persons who are mobility impaired; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸⁹ **SECTION 1. AMENDMENT.** Subsection 4 of section 39-01-15 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. The director may issue, for a fee of three dollars per year or part of a year, a special identifying certificate to any mobility-impaired applicant upon submission by the applicant of a completed application and a written statement issued by a qualified physician or an advanced practice registered nurse to the director that the applicant is a mobility-impaired person within the criteria of subsection 2. The director shall waive the requirement for a written statement from a qualified physician or an advanced practice registered nurse if the applicant has previously submitted an application containing a certification from a qualified physician or an advanced practice registered nurse that the applicant's impairment is not reversible. The application must include the information required by the director. The physician's or advanced practice registered nurse's statement must describe how the impairment limits the applicant's mobility and daily life functions of the applicant. The certificate is valid for a period, not to exceed three years, as determined by the director. A physician or an advanced practice registered nurse who provides a false statement that a person is mobility impaired for the purpose of that person obtaining a certificate under this subsection is guilty of an infraction for which a minimum fine of one hundred dollars must be imposed. A certificate issued under this subsection must be nine and one-half inches [24.13 centimeters] in height and three inches [7.62 centimeters] in width and must bear, in white on blue, the internationally accepted symbol of access for the mobility impaired. The certificate must bear the expiration date and registration number assigned by the director. The director shall adopt rules governing the issuance of the certificate. A temporary certificate, valid

¹⁸⁹ Section 39-01-15 was also amended by section 1 of Senate Bill No. 2181, chapter 458.

for an initial period not to exceed three months, may be issued by the director for a fee of three dollars upon application supported by a physician's or an advanced practice registered nurse's statement. The director may issue a maximum of one additional temporary certificate, for a fee of three dollars. The temporary certificate may be extended an additional period, not to exceed three months, upon application supported by a physician's or an advanced practice registered nurse's statement that the extension is warranted. Temporary certificates must be the same size as other certificates issued under this section and must be white on red. The director may issue a maximum of one additional certificate, if the applicant does not have license plates issued under section 39-04-10.2, for a fee of six dollars per certificate, to a mobility-impaired person to whom a certificate has been issued under this subsection. The additional certificates may only be used by or on behalf of the mobility-impaired person.

Approved April 4, 1995
Filed April 4, 1995

CHAPTER 364

HOUSE BILL NO. 1093

(Representative Price)

(At the request of the Department of Transportation)

MOTOR VEHICLE DEALER VIOLATION HEARINGS

AN ACT to amend and reenact section 39-01-16 of the North Dakota Century Code, relating to hearings on alleged violations by motor vehicle dealers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-01-16 of the North Dakota Century Code is amended and reenacted as follows:

39-01-16. Hearing on alleged violations. Any person having information that a licensed dealer has violated any provisions of this title may file with the ~~registrar~~ director an affidavit specifically setting forth such violation. Upon receipt of such affidavit, the ~~registrar shall set the matter for hearing in Bismarck not less than ten days after copies of the affidavit and notice of hearing have been~~ director shall investigate the violation alleged in the affidavit. If, after investigation, the director determines that the dealer's license will be revoked or suspended, a notice of intent to revoke or suspend the license must be mailed to the dealer by registered mail. The notice must provide the dealer with an opportunity for a hearing prior to the effective date of the license revocation or suspension. A record of such hearings must be made by stenographic notes or use of an electronic recording device.

If after such hearing the ~~registrar~~ director finds the violation charged in the affidavit has been proved by the evidence, an order must be served on the licensee revoking or suspending the dealer's license for a period of time to be determined by the ~~registrar~~ director. Such action may be appealed to the district court by following the appeal procedure set forth in chapter 28-32, except that the order revoking or suspending the license is ineffective while the appeal is pending.

The ~~registrar~~ director has the power to appoint an administrative hearing officer to conduct the hearing, administer oaths, and subpoena and examine witnesses. The administrative hearing officer shall submit the findings to the ~~registrar~~ director for consideration and final decision.

Any witness called by the prosecution, except a peace officer while on duty, shall receive the same fees and mileage as a witness in a civil case in district court.

Approved February 1, 1995

Filed February 1, 1995

CHAPTER 365**SENATE BILL NO. 2173**

(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

HIGHWAY PATROLMEN'S RETIREMENT BENEFITS

AN ACT to create and enact a new section to chapter 39-03.1 of the North Dakota Century Code, relating to conversion of unused sick leave under the highway patrolmen's retirement system; and to amend and reenact subsection 2 of section 39-03.1-10.1, subdivision a of subsection 4 of section 39-03.1-11, subsection 6 of section 39-03.1-11, and subsection 8 of section 39-03.1-11 of the North Dakota Century Code, relating to purchase of service, retirement benefits, surviving spouse benefits, and surviving spouses of members under the highway patrolmen's retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-03.1-10.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. A contributor who was paid a refund under subdivision a of subsection 1 may, upon reemployment, elect to repurchase months of service lost to the date of refund. The election to repurchase must be made within ninety days of reemployment and repayment must begin within twelve months of reemployment. The repayment may be made in a lump sum or by periodic payments that each year include at least ten percent of the repayment principal amount. The board shall establish an interest rate to be charged on periodic payments. If the contributor's death occurs before completion of the repurchase, the contributor's spouse may, within ninety days of the contributor's death, complete the repurchase. Benefits payable to the surviving spouse cannot be paid until the repurchase has been completed the forfeited past service for the retirement program and the retiree health benefits program in accordance with the rules adopted by the board.

SECTION 2. AMENDMENT. Subdivision a of subsection 4 of section 39-03.1-11 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- a. Normal retirement benefits for all contributors reaching the normal retirement date are payable monthly, and are:
 - (1) The first twenty-five years of credited service multiplied by ~~two three~~ and ~~ninety six~~ three hundredths percent of final average salary.
 - (2) All years in excess of twenty-five years of credited service multiplied by one and three-fourths percent of final average salary.

- (3) All contributors who retired before July 1, ~~1993~~ 1995, are entitled to receive benefits equal to ~~two~~ three and ~~ninety-six~~ three hundredths 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, with the increased benefits payable beginning July 1, ~~1993~~ 1995.

SECTION 3. AMENDMENT. Subsection 6 of section 39-03.1-11 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted 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 surviving spouse; if any. However, if there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing, the board shall pay the contributor's account balance to the contributor's beneficiary or, if there is no named beneficiary, to the contributor's estate.~~ If the contributor has not designated ~~any~~ an alternate beneficiary under this section, the surviving spouse of the contributor 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~~ were 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.

SECTION 4. A new section to chapter 39-03.1 of the North Dakota Century Code is created and enacted as follows:

Conversion of sick leave. At termination of eligible employment a member is entitled to credit in the retirement system for each month of unused sick leave, as certified by the employer, if the member pays an amount equal to the member's final average salary, times the number of months of sick leave converted, times the employer and employee contribution, plus one percent for the retiree health benefits program. Hours of sick leave equal to a fraction of a month are deemed to be a full month for purposes of conversion to service credit. A member may convert all of the member's certified sick leave or a part of that person's certified sick leave. All conversion payments must be made within sixty days of termination and before the member receives a retirement annuity.

SECTION 5. AMENDMENT. Subsection 8 of section 39-03.1-11 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a contributor ~~who~~ is receiving retirement benefits, or a contributor's surviving spouse ~~who~~ is receiving retirement benefits, dies before the total amount of benefits paid to them equals the amount of the contributor's accumulated deductions at retirement, the difference must be paid to ~~that spouse's estate; to the surviving beneficiary; or to the contributor's estate~~ the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.

Approved March 15, 1995
Filed March 15, 1995

CHAPTER 366

SENATE BILL NO. 2128

(Senator B. Stenehjem)

(At the request of the Department of Transportation)

MOTOR VEHICLE STAGGERED REGISTRATION

AN ACT to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to a staggered registration system for certain vehicles; and to amend and reenact section 39-04-06 of the North Dakota Century Code, relating to checks for registration fees returned to the department of transportation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-06 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-04-06. When registration rescinded or suspended. The department shall rescind or suspend the registration of a vehicle for any of the following:

1. When the department determines a vehicle is unsafe or unfit to be operated or is not equipped as required by law.
2. When the person to whom the registration card or registration number plates have been issued makes or permits any unlawful use of the same or permits the use thereof by a person or on a vehicle not entitled thereto.
3. When the department finds that a vehicle is registered in accordance with a reciprocity agreement, arrangement, or declaration and the vehicle is operated in violation of the agreement.
4. When the department determines that a motor vehicle is not covered by security for payment of basic no-fault benefits and the liabilities covered under motor vehicle liability insurance as required by chapter 26.1-41.
5. When the department is satisfied that the registration or registration card, plate, or permit was fraudulently or erroneously issued.
6. When a registered vehicle has been dismantled or wrecked.
7. When a registration card, registration plate, or permit is knowingly displayed upon a vehicle other than the one for which issued.
8. When the department determines that the owner has committed any offense under this chapter involving the registration or the registration card, plate, or permit to be suspended or rescinded.
9. When the purchaser or transferee of a vehicle fails to present the endorsed and assigned certificate of title to the department for transfer and make application for a new certificate of title within thirty days as required by section 39-05-17.

10. When the department determines a vehicle is operating in violation of the provisions of the international fuel tax agreement.

Any registration suspended for any of the above reasons must be restored upon compliance with the laws governing vehicle registration.

Whenever a check is returned to the department for want of payment the department shall rescind the registration of the vehicle covered by the check.

Any registration rescinded for want of payment of a check must be restored upon payment of the registration fee and a reasonable cost not to exceed twenty dollars for the collection of the check. If a returned check has a value exceeding one thousand dollars, the department shall also collect an additional fee of one percent of the value of the check.

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

Staggered registration for apportioned vehicles. The director may establish a procedure for the implementation of a staggered registration system for vehicles registered pursuant to the international registration plan. Procedures established under this section may provide for a one-time collection of up to eighteen months of registration fees.

Approved March 10, 1995

Filed March 10, 1995

CHAPTER 367

HOUSE BILL NO. 1064

(Representatives Wald, Bernstein)
(Senators Kinnoin, Solberg, Tennefos)

PLATES RETAINED UPON VEHICLE TRANSFER

AN ACT to amend and reenact sections 39-04-10.3, 39-04-36, 39-04-39.2, and 39-04-44 of the North Dakota Century Code, relating to the retention of number plates by an owner when a vehicle is transferred or assigned; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-10.3 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-04-10.3. Personalized plates. The department may, in its discretion, provide special license plates marked with not more than seven numerals, letters, or ampersands, or combinations of numerals, letters, and ampersands, at the request of the registrant, upon application therefor and payment of an additional fee of twenty-five dollars per registration period. The department shall make the special license plates authorized by this section available for motor vehicles registered under section 39-04-10.6, trailers, travel trailers, and motorcycles. The fee for the special license plates issued under this section for vehicles registered under section 39-04-10.6 is a one-time fee of one hundred dollars. The special license plates for motorcycles may contain not more than six numerals, letters, or ampersands, or a combination of not more than six numerals, letters, and ampersands. In the event of sale or transfer of the vehicle, the owner must remove the special license plates ~~may remain with the vehicle or they may be surrendered and, upon application, regular license plates must be issued without additional cost, or upon in accordance with section 39-04-36.~~ Upon payment of the applicable registration transfer fee, the special license plates must may be transferred to the a replacement motor vehicle.

SECTION 2. AMENDMENT. Section 39-04-36 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-04-36. Transfer of registration and registered vehicle - Removal of number plates upon transferring or assigning title - Exception - Transfer of number plates.

1. Whenever the owner ownership of a vehicle registered under the provisions of this chapter transfers or assigns his title thereto or interest therein or chapter 39-18 is transferred or assigned, the registration of the vehicle, together with the number plates originally assigned thereto, must be transferred to the transferee as provided in this chapter. The number plates originally assigned to the vehicle must remain attached thereto until the end of the current registration year except as provided in this chapter or as provided by section 39-26-05 and subsection 1 of section 39-26-08 expires and the transferor shall remove the number plates.
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 five dollar transfer fee. A new registration plate must be assigned to the vehicle being replaced. Upon applying for the transfer of the registration and paying a five dollar fee, a person who transfers or assigns to another person the ownership of a registered vehicle may receive credit for the unused portion of the fees paid for the transferred vehicle. One-twelfth of the annual fee must be credited for each month of the registration period remaining after the month in which the transfer is made. The credit may not extend beyond the original expiration of the registration. Except as provided in section 39-04-44, the credit must be applied to the registration fees for a replacement vehicle. The transferor shall apply for the transfer of registration within thirty days of the purchase of the replacement vehicle.

3. The owner of a vehicle registered for a gross weight in excess of thirty-six thousand pounds [16,329.33 kilograms] may transfer registration and number plates from one truck to a replacement truck by compliance with procedures established by the department. The truck from which the registration and number plates are transferred may not be operated upon the highways of this state until properly licensed therefor under the provisions of this chapter. Except as otherwise permitted in this chapter, before the transferee of a registered vehicle may operate the vehicle on a highway, the transferee must apply for and obtain a new registration of the vehicle, as on an original registration. To provide the transferee adequate time to obtain a new registration, the director may provide for the issuance of a temporary registration certificate to permit the transferee to operate the vehicle for thirty days after the date of acquisition. The certificate must be available to the transferee from licensed vehicle dealers, law enforcement agencies, and motor vehicle branch offices. The vehicle may be operated for five days from date of purchase without a plate or certificate of ownership if dated evidence of ownership is carried in the vehicle. The evidence of ownership must be in a form as prescribed by the department.

SECTION 3. AMENDMENT. Section 39-04-39.2 of the North Dakota Century Code is amended and reenacted as follows:

39-04-39.2. Refunds of registration fees. No refunds of registration fees may be made, except ~~where~~ when the vehicle has been improperly registered or ~~where~~ when the vehicle has been destroyed.

SECTION 4. AMENDMENT. Section 39-04-44 of the North Dakota Century Code is amended and reenacted as follows:

39-04-44. Credits on destroyed vehicle. Any owner of a motor vehicle licensed in this state, if such vehicle is permanently and involuntarily destroyed, may during the same year or following year claim a refund in an amount equal to the unused portion of the fee paid, less five dollars, upon the vehicle so destroyed, computed pro rata by the month, one-twelfth of the annual fee paid for each month of the year remaining after the month in which such vehicle was so destroyed, provided the number plates, registration card, and certificate of title are returned to the department. If the number plates or registration card assigned to the vehicle are destroyed, a refund may be obtained upon furnishing information of such fact satisfactory to the department. Upon receiving the certificate of title, the department shall issue a salvage certificate of title.

SECTION 5. EFFECTIVE DATE. This Act is effective December 1, 1997.

Approved April 7, 1995
Filed April 7, 1995

CHAPTER 368

HOUSE BILL NO. 1239
(Representative Timm)

TRAILER NUMBER PLATE REPLACEMENT

AN ACT to amend and reenact subsection 2 of section 39-04-12 of the North Dakota Century Code, relating to trailer number plates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-04-12 of the North Dakota Century Code is amended and reenacted as follows:

2. The department ~~may~~, in its discretion, may provide to an owner of a ~~fleet of ten or more trailers which are~~ trailer that is operated, offered for lease ~~and, or~~ and rented to the public, number plates ~~which that~~ that are for a period of not more than six consecutive years and which are exempt from the requirements of annual validation evidence. The registration fees for ~~such trailers~~ the trailer may be paid for the entire period for which the plates are issued, or the ~~fees~~ fee may be paid for the first year of the issue and a corporate surety bond may be filed in ~~such~~ the sum as the department ~~deems~~ determines reasonable and adequate in the circumstances, conditioned that the owner will pay the annual fee at the beginning of each annual registration period. The department shall transfer to a replacement trailer number plates issued pursuant to this subsection along with any unused registration fees. If the owner has disposed of the trailer and is not replacing the trailer, upon surrender of the number plates the department shall issue a refund of the registration fees paid for any unused registration year.

Approved March 21, 1995

Filed March 23, 1995

CHAPTER 369

SENATE BILL NO. 2286

(Senator Mutch)
(Representative Belter)

MOTOR VEHICLE FLEET REGISTRATION
WITHDRAWAL

AN ACT to amend and reenact section 39-04-44 of the North Dakota Century Code, relating to credits on the registration of motor vehicles withdrawn from fleet registration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-44 of the North Dakota Century Code is amended and reenacted as follows:

39-04-44. Credits on destroyed or withdrawn vehicle.

1. Any owner of a motor vehicle licensed in this state, if such vehicle is permanently and involuntarily destroyed, may during the same year or following year claim a refund in an amount equal to the unused portion of the fee paid upon the vehicle so destroyed, computed pro rata by the month, one-twelfth of the annual fee paid for each month of the year remaining after the month in which such vehicle was so destroyed, provided the number plates, registration card, and certificate of title are returned to the department. If the number plates or registration card assigned to the vehicle are destroyed, a refund may be obtained upon furnishing information of such fact satisfactory to the department. Upon receiving the certificate of title, the department shall issue a salvage certificate of title.
2. If a vehicle is withdrawn from a proportionally registered fleet during the period for which it is registered, the registrant of the fleet shall notify the department. The department may require surrender of cab cards and other identification devices with respect to the vehicle. If a vehicle is permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold, or otherwise completely removed from the service of the fleet operator, the unused portion of the fees paid with respect to the vehicle must be applied against liability of the fleet operator for subsequent additions to the fleet during the registration year or for additional fees upon audit. If at the end of the registration year there remains an unused portion of fees paid with respect to the permanently withdrawn vehicles, the unused fees must be applied against registration fees for the registration year immediately following the year during which the vehicles were permanently withdrawn. The used portion of fees of a vehicle permanently withdrawn from a fleet is a sum equal to the amount paid with respect to the vehicle when it was first proportionally registered in the registration year, reduced by one-twelfth of the total annual proportional registration fee applicable to the vehicle for each calendar month of the registration year including the month the notice of withdrawal is received by the department, except that no unused portion of fees of less than five dollars may be considered or

applied. If an unused portion of fees cannot be applied against registration fees for the registration year immediately following, an application for refund of the unused portion may be made to the department, which shall adopt rules as may be required for payment of the refund.

Approved March 10, 1995

Filed March 13, 1995

CHAPTER 370

HOUSE BILL NO. 1232
(Representatives Keiser, Gorman)

NONDRIVER IDENTIFICATION CARDS FOR CHILDREN

AN ACT to amend and reenact subsection 1 of section 39-06-03.1 of the North Dakota Century Code, relating to nondriver photo identification cards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-06-03.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The director shall issue upon request a nondriver color photo identification card to any North Dakota resident, of the age of twelve years or over, ~~fulfilling~~ who fulfills the requirements of this section. The director may issue upon request a nondriver color photo identification card to any North Dakota resident under twelve years of age who fulfills the requirements of this section, except that the form of verification of the name and the date of birth is in the director's discretion, as is the manner in which the records are kept. A nondriver color photo identification card issued to a resident under twelve years of age expires on the twelfth birthday of that resident. If the person is under the age of twenty-one, the photo must be against the same color background required on a motor vehicle operator's license of an operator under the age of twenty-one years.

Approved March 14, 1995
Filed March 14, 1995

CHAPTER 371**HOUSE BILL NO. 1237**

(Representatives Drovdal, Kempenich, Kerzman)

(Senators Bowman, O'Connell)

DRIVER'S LICENSE EXAMINATIONS

AN ACT to amend and reenact section 39-06-13 of the North Dakota Century Code, relating to examination of operator's license applicants.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06-13 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted 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~~ The 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 ~~these applicants~~ an applicant who ~~have~~ has successfully passed such a test in ~~some other~~ this or another state. 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.

Approved March 10, 1995

Filed March 10, 1995

CHAPTER 372

HOUSE BILL NO. 1092

(Representative Belter)

(At the request of the Department of Transportation)

DEPARTMENT OF TRANSPORTATION PROCEDURES

AN ACT to amend and reenact subsection 1 of section 39-06-14, section 39-06-27, subsection 4 of section 39-06-32, subsection 2 of section 39-06-33, sections 39-06.1-14, 39-16-03, 39-16-03.1, subsection 1 of section 39-16-05, section 39-16.1-07, subsection 1 of section 39-16.1-19, and subsection 2 of section 39-20-04 of the North Dakota Century Code, relating to photographs on motor vehicle operator's licenses, proof of driving offenses in other jurisdictions, refusal to submit to an implied consent chemical test in another state, rules for hearings on suspension or revocation, delivery of suspension orders, fees for copies of operating records, entries on driver record abstracts, time for filing proof of financial responsibility before suspension, proof of financial responsibility, and curing a refusal to take a chemical test.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹⁰ SECTION 1. AMENDMENT. Subsection 1 of section 39-06-14 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The ~~commissioner shall~~ director, upon payment of a ten dollar fee, shall issue to every qualified applicant an operator's license as applied for in the form prescribed by the ~~commissioner~~ director. 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~~ director must include a statement making an anatomical gift under chapter 23-06.2. No license is valid until it has been signed by the licensee with the licensee's usual signature. The department shall develop a system to require each applicant for an operator's license or renewal of an operator's license to determine whether or not the applicant wishes to be a donor under chapter 23-06.2. For purposes of verification, an officer may require the licensee to write the licensee's signature in the presence of the officer. The ~~commissioner~~ director 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. The photograph may be

¹⁹⁰ Section 39-06-14 was also amended by section 1 of Senate Bill No. 2481, chapter 373, and section 1 of Senate Bill No. 2484, chapter 374.

produced by digital imaging or other electronic means and is not a public record.

SECTION 2. AMENDMENT. Section 39-06-27 of the North Dakota Century Code is amended and reenacted as follows:

39-06-27. Suspending licenses upon conviction, suspension, or revocation in another state. The ~~commissioner~~ director may suspend or revoke the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice of the conviction of such person in another state of an offense therein which, if committed in this state, would be grounds for the suspension or revocation of the license of an operator. This section may not be construed as authorizing the assessment of points against a resident driver's record in accordance with chapter 39-06.1, except upon conviction of a resident driver for a criminal offense in another state which is equivalent to one of those offenses defined in section 39-06.1-05. No suspension or revocation may be imposed for convictions for driving under suspension or revocation in another state if a valid North Dakota license or permit was in effect at the time of the violation. For the purposes of this section, originals, photostatic copies, or electronic transmissions of the records of the drivers licensing authority of the other ~~state~~ jurisdiction are sufficient evidence whether or not they are certified copies.

Upon receipt of a certification that the operating privileges of a resident of this state have been suspended or revoked in any other state pursuant to a law providing for the suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident, under circumstances which would require the ~~commissioner~~ director to suspend a nonresident's operating privileges had the accident occurred in this state, the ~~commissioner~~ director shall suspend the license of such resident if he was the driver of a motor vehicle involved in such accident. Such suspension continues until such resident furnishes evidence satisfactory to the ~~commissioner~~ director of his compliance with the laws of such other state relating to the deposit of security or payment of a judgment arising out of a motor vehicle accident, to the extent that such compliance would be required if the accident had occurred in this state.

SECTION 3. AMENDMENT. Subsection 4 of section 39-06-32 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. Refusal to submit to an implied consent chemical ~~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~~ jurisdiction'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 39-06.2-10.

SECTION 4. AMENDMENT. Subsection 2 of section 39-06-33 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. Any hearing conducted under this section and any appeal from the decision of the hearing must be conducted under ~~rules adopted by the~~

~~director~~ chapter 28-32, except the hearing must be heard within sixty days of the receipt of the request for hearing and in the county of the licensee's residence, unless the parties agree to a different time and place for the hearing. At the hearing, the regularly kept records of the director may be introduced and are prima facie evidence of their content without further foundation.

SECTION 5. AMENDMENT. Section 39-06.1-14 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-14. Failure to surrender license. The ~~commissioner~~ director shall extend the period of suspension or revocation in all cases that involve a time period, within this title, when the person whose license or permit has been suspended or revoked fails to surrender such license or permit within forty-eight hours after ~~constructive~~ delivery of the order of suspension or revocation. Such period of suspension or revocation must be extended by one day for each day such person fails to surrender such license. Delivery of the order must be deemed to have occurred seventy-two hours after the order is mailed by regular mail to the address of record in the department under section 39-06-20.

SECTION 6. AMENDMENT. Section 39-16-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-16-03. Abstract - Not admissible in evidence - Fee. The ~~commissioner~~ director 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 three dollars must be paid for each abstract of any operating record, complete operating record, or record of clearance, except no fee will be assessed to law enforcement agencies. The ~~commissioner~~ director 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.

SECTION 7. AMENDMENT. Section 39-16-03.1 of the North Dakota Century Code is amended and reenacted as follows:

39-16-03.1. Entries on driver record abstract more than three years old confidential. Notwithstanding any other provisions of this chapter, no entry more than three years old or an entry concerning a suspension under subsection 4, 5, 6, or 7 of section 39-06-03, or subsection 2, 5, or 6 of section 39-06-32, after the suspension ceases, on a driver record or abstract shall be available to the public,

except for statistical purposes, other than by order of a court of competent jurisdiction. The order must be accompanied by a fee of twenty-five dollars.

SECTION 8. AMENDMENT. Subsection 1 of section 39-16-05 of the North Dakota Century Code is amended and reenacted as follows:

1. The ~~commissioner~~ director, within ~~sixty~~ ninety days after the receipt of a report of a motor vehicle accident within this state for which a driver is required to file a report under section 39-08-09, shall suspend the license or nonresident operating privilege of each driver of each vehicle in any manner involved in the accident unless the driver deposits security as provided in sections 39-16-09 and 39-16-10 in a sum which is sufficient in the judgment of the ~~commissioner~~ director to satisfy any judgment or judgments for damages resulting from the accident as may be recovered against such driver. Notice of suspension and opportunity for hearing must be sent by the ~~commissioner~~ director to the driver not less than ten days prior to the effective date of the suspension and must state the amount required as security. However, if a driver, either resident or nonresident, involved in the accident purchases an insurance policy with at least the amount of coverage required by this section, and files proof and satisfies financial responsibility requirements thereof with the ~~commissioner~~ director, that driver may retain the license or privilege until the driver has accepted responsibility for the accident or agreed to a settlement of claims arising from the accident or until a court of this state has determined that the driver was negligent or responsible for the accident in whole or in part. If the driver is found negligent or responsible for the accident, in whole or in part, the license or privilege must be suspended and will not be returned until the driver complies with this chapter.

SECTION 9. AMENDMENT. Section 39-16.1-07 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-16.1-07. Revocation or suspension of license for reasons other than provisions of this chapter.

1. Whenever the director under any other law of this state, except sections 39-06-40 and 39-06-40.1, revokes the license of any person, the license must remain revoked and may not be renewed nor shall any license be issued to such person, unless the person gives and maintains proof of financial responsibility.
2. If a person by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the revocation of license, driving or being in actual physical control of a vehicle while under the influence in violation of section 39-08-01 or equivalent ordinance, or operating a motor vehicle upon the highway while the person's license or privilege to drive is under suspension for a violation requiring a license or privilege to drive suspension of at least ninety-one days or revocation, the license or driving privilege must remain suspended or revoked and no license may be issued or returned to the person, unless the person gives and maintains proof of financial responsibility.
3. ~~Whenever the director revokes or suspends a nonresident's operating privilege by reason of an administrative sanction under chapter 39-20, a~~

conviction, or forfeiture of bail, the privilege remains revoked or suspended unless the person gives and maintains proof of financial responsibility.

SECTION 10. AMENDMENT. Subsection 1 of section 39-16.1-19 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The ~~commissioner~~ director shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the ~~commissioner~~ director shall direct and the Bank of North Dakota shall return to the person entitled thereto any money or securities deposited pursuant to this chapter as proof of financial responsibility, or the ~~commissioner~~ director shall waive the requirement of filing proof, in any of the following events:
 - a. At any time after ~~three years~~ one year from the date such proof was required when, during the ~~three-year~~ one-year period preceding the request, the ~~commissioner~~ director has not received record of a conviction or a forfeiture of bail which would require the revocation of the license or operating privilege, or both, of the person by or for whom such proof was furnished.
 - b. The death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle.
 - c. The surrender of his license to the ~~commissioner~~ director by the person who has given proof.

SECTION 11. AMENDMENT. Subsection 2 of section 39-20-04 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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~~ held under section 39-20-05;
 - b. The person mails an affidavit to the director within twenty-five 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~~ director 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~~ director prior to the return or reinstatement of the person's driving privileges.

Approved March 14, 1995
Filed March 14, 1995

CHAPTER 373

SENATE BILL NO. 2481

(Senator G. Nelson)
(Representative Belter)

FARM EXEMPTION FOR OPERATOR'S LICENSE

AN ACT to amend and reenact paragraph 3 of subdivision b of subsection 2 of section 39-06-14 of the North Dakota Century Code, relating to the farm exemption for holders of a class D motor vehicle operator's license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹¹ SECTION 1. AMENDMENT. Paragraph 3 of subdivision b of subsection 2 of section 39-06-14 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- (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 or truck tractor 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 double trailer, triple trailer, or if under eighteen years of age, a truck tractor as defined in subsection 85 of section 39-01-01.
- (b) A bus designed to carry sixteen or more passengers, including the driver.

Approved March 17, 1995

Filed March 20, 1995

¹⁹¹ Section 39-06-14 was also amended by section 1 of House Bill No. 1092, chapter 372, and section 1 of Senate Bill No. 2484, chapter 374.

CHAPTER 374**SENATE BILL NO. 2484**

(Senators O'Connell, Goetz, Solberg)
(Representatives Belter, Johnson, Nicholas)

CUSTOM HARVESTER OPERATOR'S LICENSES

AN ACT to amend and reenact subsection 3 of section 39-06-14 of the North Dakota Century Code, relating to custom harvester operator's licenses for persons over sixteen years of age; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹² **SECTION 1. AMENDMENT.** Subsection 3 of section 39-06-14 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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 the holder is deemed to be driving a motor vehicle without being duly licensed ~~by~~ under 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~~ the license. The commissioner may ~~impose such~~ adopt rules ~~and regulations~~ as he may deem the commissioner determines are necessary with respect to such renewals or exchanges for the proper administration of this chapter. No class A, B, or C license may be issued to any person under eighteen years of age, except a class A, B, or C type license specially restricted to use for custom harvest purposes must be issued to a person at least sixteen years of age who satisfactorily completes the appropriate examinations.

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

Approved March 17, 1995

Filed March 20, 1995

¹⁹² Section 39-06-14 was also amended by section 1 of House Bill No. 1092, chapter 372, and section 1 of Senate Bill No. 2481, chapter 373.

CHAPTER 375

SENATE BILL NO. 2048

(Legislative Council)

(Interim Court Services Committee)

(Senators W. Stenehjem, Andrist)

(Representatives Mahoney, Soukup, Kretschmar)

NONCRIMINAL TRAFFIC VIOLATION APPEALS

AN ACT to amend and reenact section 39-06.1-03 of the North Dakota Century Code, relating to appeals of noncriminal traffic violations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹³ SECTION 1. AMENDMENT. Section 39-06.1-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-06.1-03. Administrative hearing - Procedures - Appeals - Stay orders.

1. If a person cited for a traffic violation, other than an offense listed in section 39-06.1-05, does not choose to follow one of the procedures set forth in section 39-06.1-02, ~~he~~ the person may request a hearing on the issue of ~~his~~ commission of the violation charged; ~~the~~ The hearing to must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance.
2. At the time of a request for a hearing on the issue of commission of the violation, the person charged shall deposit with the official having jurisdiction an appearance bond equal to the statutory fee for the violation charged.
3. If a person cited for a traffic violation, other than an offense listed in section 39-06.1-05, ~~who~~ has requested a hearing on the issue of the commission of the violation charged; and appears at the time scheduled for the hearing, and the state or city, as the case may be, does not appear or is not ready to prove the commission of a charged violation at the hearing, the official shall dismiss the charge.
4. If the official finds that the person had committed the traffic violation, ~~he~~ the official shall notify the licensing authority of that fact, and whether the person was driving more than nine miles [14.48 kilometers] per hour in excess of the lawful limit, stating specifically the miles [kilometers] per hour in excess of the lawful limit, if charged with a speeding violation, within ten days of the date of the hearing. The fact that a person has admitted a violation, or has, in any proceeding, been found to have committed a violation, may not be referred to in any way, nor be admissible as evidence in any court, civil, equity, or criminal, except in

¹⁹³ Section 39-06.1-03 was also amended by section 3 of Senate Bill No. 2116, chapter 318.

an action or proceeding involving that person's driving license or privilege.

5. a. If a person is aggrieved by a finding that the person committed the violation, the person may, without payment of a filing fee, appeal that finding to the district court for trial anew. If, after trial in the appellate court, the person is again found to have committed the violation, there may be no further appeal. Notice of appeal under this subsection must be given within thirty days after a finding of commission of a violation is entered by the official. Oral notice of appeal may be given to the official at the time that the official adjudges that a violation has been committed. Otherwise, notice of appeal must be in writing and filed with the official, and a copy of the notice must be served upon the prosecuting attorney. An appeal taken under this subsection may not operate to stay the reporting requirement of subsection 4, nor to stay appropriate action by the licensing authority upon receipt of that report.
- b. The appellate court upon application by the appellant may:
 - (1) Order a stay of any action by the licensing authority during pendency of the appeal, but not to exceed a period of one hundred twenty days;
 - (2) Order a stay and that the appellant be issued a temporary restricted driving certificate by the licensing authority to be effective for no more than one hundred twenty days; or
 - (3) Deny the application.

An application for a stay or temporary certificate under this subdivision must be accompanied by a certified copy of the appellant's driving record, for the furnishing of which the licensing authority may charge a fee of two dollars. Any order granting a stay or a temporary certificate must be forwarded forthwith by the clerk of court to the licensing authority, which shall issue a temporary certificate in accordance with the order in the manner provided by law. A court may not make a determination on an application under this subdivision without notice to the appropriate prosecuting attorney. A person who violates or exceeds the restrictions contained in any temporary restricted driving certificate issued pursuant to this subdivision is guilty of a traffic violation and must be assessed a fee of twenty dollars.

- c. If the person charged is found not to have committed the violation by the appellate court, the clerk of court shall report that fact to the licensing authority immediately. If an appeal under this subsection is from a violation of a city ordinance, the city attorney for the city wherein the alleged violation occurred shall prosecute the appeal. In all other cases, the appropriate state's attorney shall prosecute the appeal.
6. The state or the city, as the case may be, must prove the commission of a charged violation at the hearing or appeal under this section by a fair preponderance of the evidence. Upon an appeal under subsection 5, the court and parties shall follow, to the extent applicable, the North Dakota

Rules of Civil Procedure. If on the appeal from the finding of the official the finding is affirmed, costs may be assessed at the discretion of the trial judge.

7. As used in sections 39-06.1-02, 39-06.1-03, and 39-06.1-04, the word "official" means a ~~district judge, a~~ municipal judge, or; ~~when provided by statute, a~~ magistrate or other qualified person appointed by a district the presiding judge of the judicial district, to serve as such official for all or a specified part of a the judicial district.

Approved March 1, 1995
Filed March 1, 1995

CHAPTER 376**SENATE BILL NO. 2262**

(Senators Christmann, Kelsh)
(Representative Boehm)

SCHOOLBUS OVERTAKING AND PASSING PENALTY

AN ACT to amend and reenact subsection 2 of section 39-06.1-06 and section 39-10-46.1 of the North Dakota Century Code, relating to the statutory fees for overtaking and passing a schoolbus; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-06.1-06 of the 1994 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for:
 - a. A violation of section 39-10-41 ~~or~~, 39-10-42, 39-10-46, or 39-10-46.1, a fee of fifty dollars.
 - b. A violation of section 39-10-05 involving failure to yield to a pedestrian or subsection 1 of section 39-10-28, a fee of fifty dollars.

SECTION 2. AMENDMENT. Section 39-10-46.1 of the North Dakota Century Code is amended and reenacted as follows:

39-10-46.1. Permitting use of vehicle to violate section 39-10-46 prohibited - Penalty - Presumption of permission - Defense - Dual prosecution prohibited. The registered owner of a motor vehicle may not permit that motor vehicle to be operated in violation of section 39-10-46. ~~A person violating this provision is subject to a civil penalty of twenty dollars.~~ If a motor vehicle is seen violating section 39-10-46, it is a disputable presumption that the registered owner of the motor vehicle permitted that violation. It is a defense to a charge of violating this section that the registered owner of the vehicle was not operating the vehicle, if that registered owner identifies the person authorized by that owner to operate the motor vehicle at the time of the violation of section 39-10-46, or if that motor vehicle had been taken without the registered owner's permission. A person may not be charged both with violating this section and with violating section 39-10-46. Violation of this section is not a lesser included offense of violation of section 39-10-46.

Approved March 10, 1995

Filed March 13, 1995

CHAPTER 377**HOUSE BILL NO. 1492**

(Representatives Boehm, Carlisle, Rydell)
(Senator Christmann)

DRIVING WITHOUT LIABILITY INSURANCE PENALTY

AN ACT to create and enact a new paragraph to subdivision b of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to the penalty for driving without liability insurance; and to amend and reenact section 39-08-20 of the North Dakota Century Code, relating to driving without liability insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new paragraph to subdivision b of subsection 3 of section 39-06.1-10 of the 1993 Supplement to the North Dakota Century Code is created and enacted as follows:

Except as provided in paragraph 9 of this subdivision, operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the driving record shows that the licensee has within the eighteen months preceding the violation previously violated section 39-08-20 12 points

SECTION 2. AMENDMENT. Section 39-08-20 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-08-20. Driving without liability insurance prohibited - Penalty. A person may not drive, or the owner may not cause or knowingly permit to be driven, 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 be charged with a violation of this section if that person fails to submit such evidence to the officer or the officer's agency within twenty days of the date of the request. If that person produces a valid policy of liability insurance in effect at the time of violation of this section to the officer, officer's agency, or a court, that person may not be convicted or assessed any court costs for violation of this section. Violation of this section is a class B misdemeanor and the sentence imposed must include a fine of at least one hundred fifty dollars

which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within an eighteen-month period must be fined at least three hundred dollars which may not be suspended.

Approved April 7, 1995
Filed April 7, 1995

CHAPTER 378

SENATE BILL NO. 2331

(Senators Lindaas, Grindberg, Watne)
(Representatives Gulleason, Monson, Rydell)

DRIVING UNDER THE INFLUENCE WITH MINOR

AN ACT to create and enact a new section to chapter 39-08 of the North Dakota Century Code, relating to the penalty for driving while under the influence of alcohol while being accompanied by a minor.

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 created and enacted as follows:

Driving while under the influence of alcohol while being accompanied by a minor - Penalty. It is a class A misdemeanor for an individual who is at least twenty-one years of age to violate section 39-08-01 if the violation occurred while a minor was accompanying the individual in a motor vehicle.

Approved March 10, 1995
Filed March 13, 1995

CHAPTER 379

SENATE BILL NO. 2247

(Senators Goetz, Kinnoin)

(Representative Wald)

DRIVER'S DUTY IN ACCIDENT INVOLVING DEATH
OR INJURY

AN ACT to amend and reenact section 39-08-04 of the North Dakota Century Code, relating to the duty of a driver involved in a vehicle accident involving death or personal injury; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-08-04 of the North Dakota Century Code is amended and reenacted as follows:

39-08-04. Accidents involving death or personal injuries - Penalty.

1. The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop ~~such~~ or return with the vehicle at as close as possible to the scene of such the accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until ~~he~~ that driver has fulfilled the requirements of section 39-08-06. Every ~~such~~ stop required by this section must be made without obstructing traffic more than is necessary.
2. Any person failing ~~to stop or~~ to comply with ~~said~~ the requirements of this section under ~~such~~ circumstances involving personal injury is guilty of a class A misdemeanor. Any person negligently failing to comply with the requirements of this section under circumstances involving serious personal injury or death is guilty of a class C felony.
3. The commissioner shall revoke the license or permit to drive or nonresident operating privilege of a person convicted under this section.

Approved April 12, 1995

Filed April 13, 1995

CHAPTER 380

HOUSE BILL NO. 1368

(Representative Belter)
(Senator B. Stenehjem)

SPEEDING FEES IN CONSTRUCTION ZONES

AN ACT to amend and reenact subsection 2 of section 39-09-02 of the North Dakota Century Code, relating to speed limitations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-09-02 of the North Dakota Century Code is amended and reenacted as follows:

2. The ~~commissioner~~ director may designate and post special areas of state highways where lower speed limits apply. If there is a violation of a highway construction zone speed limit, where within that zone individuals engaged in construction were present at the time of the violation, then the fees required for a noncriminal disposition are forty dollars for one through ten miles per hour over the posted speed; and forty dollars, plus one dollar for each additional mile per hour over ten miles per hour over the limit. However, if a greater fee would be applicable under section 39-06.1-06, then that fee is required for the noncriminal disposition. The highway construction zone speed limit posted sign must state "Minimum Fee \$40".

Approved March 27, 1995
Filed March 28, 1995

CHAPTER 381**SENATE BILL NO. 2244**

(Senators B. Stenehjem, Kinnoin, O'Connell)
(Representatives Belter, Grosz, Skarphol)

INTERSECTION RIGHT-OF-WAY RULES

AN ACT to amend and reenact subsection 1 of section 39-10-22 of the North Dakota Century Code, relating to intersection right-of-way rules.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-10-22 of the North Dakota Century Code is amended and reenacted as follows:

1. When two vehicles approach or enter an intersection not controlled by an official traffic-control device from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right. If the intersection is T-shaped and not controlled by an official traffic-control device, the driver of the vehicle on the terminating street or highway shall yield to the vehicle on the continuing street or highway.

Approved March 10, 1995

Filed March 13, 1995

CHAPTER 382**SENATE BILL NO. 2284**

(Senators Mutch, Schobinger)
(Representative Belter)

**MOTOR VEHICLE LENGTH AND WIDTH LIMITATION
EXCEPTIONS**

AN ACT to amend and reenact section 39-12-04 of the North Dakota Century Code, relating to exceptions to vehicle length and width limitations for safety appurtenances.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-12-04 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-12-04. Width, height, and length limitations on vehicles - Exceptions. Vehicles operated on a highway in this state may not exceed the following width, height, or length limitations:

1. A total outside width, including load thereon, of eight feet six inches [2.59 meters]. This limitation does not apply to:
 - a. Construction and building contractors' equipment and vehicles used to move such equipment which does not exceed ten feet [3.05 meters] in width when being moved by contractors or resident carriers.
 - b. Implements of husbandry being moved by resident farmers, ranchers, 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, dealers, or manufacturers on public state, county, or township highway systems other than interstate highway systems.
 - c. Hay in the stack or bale being moved along the extreme right edge of a roadway between sunrise and sunset by someone other than a commercial mover.
 - d. Commercial movement of haystacks or hay bales with vehicles designed specifically for hauling hay, overwidth self-propelled fertilizer spreaders, and overwidth hay grinders, which may be operated on the highway after obtaining a permit issued by the highway patrol. The highway patrol shall issue permits that are valid during daylight hours on any day of the week to any commercial mover otherwise qualified under this subdivision. The permit is in lieu of registration requirements for the permit period. No permit may be issued, unless proof of financial responsibility in a minimum of three hundred thousand dollars is filed and the appropriate permit fee is paid. The permit may also be issued for hauling hay bales with vehicles or vehicle combinations other than those designed specifically for hauling haystacks. This permit,

however, will not be in lieu of registration requirements. All permit fees must be deposited in the state highway distribution fund.

- e. Safety devices that the highway patrol determines are necessary for the safe and efficient operation of motor vehicles may not be included in the calculation of width.
 - f. Any nonload carrying safety appurtenance as determined by the highway patrol which extends no more than three inches [7.62 centimeters] from each side of a trailer is excluded from the measurement of trailer width. The width of a trailer is measured across the sidemost load carrying structures, support members, and structural fasteners.
 - g. The highway patrol may adopt reasonable rules for those vehicles exempted from the width limitations as provided for in this subsection.
2. a. A height of fourteen feet [4.27 meters], whether loaded or unloaded. This height limitation does not affect any present structure such as bridges and underpasses that are not fourteen feet [4.27 meters] in height.
 - 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, dealer, or manufacturer.
 - (2) The trip is at most sixty miles [96.56 kilometers].
 - (3) The trip is between sunrise and sunset.
 - (4) None of the trip is on an interstate highway.
3. A length limitation as follows:
 - a. A single unit vehicle with two or more axles including the load thereon may not exceed a length of fifty feet [15.24 meters].
 - b. A combination of two units including the load thereon may not exceed a length of seventy-five feet [22.86 meters].
 - c. A combination of three or four units including the load thereon may not exceed a length of seventy-five feet [22.86 meters], subject to any rules adopted by the director that are consistent with public highway safety. The rules do not apply to a three-unit combination consisting of a truck tractor and semitrailer drawing a trailer or semitrailer.
 - d. A combination of two, three, or four units including the load thereon may be operated on all four-lane divided highways and those highways in the state designated by the director and local authorities as to the highways under their respective jurisdictions and may not exceed a length of one hundred ten feet [33.53 meters],

subject to any rules adopted by the director that are consistent with public highway safety.

- e. Length limitations do not apply to:
- (1) Building moving equipment.
 - (2) Emergency tow trucks towing disabled lawful combinations of vehicles to a nearby repair facility.
 - (3) Vehicles and equipment owned and operated by the armed forces of the United States or the national guard of this state.
 - (4) Structural material of telephone, power, and telegraph companies.
 - (5) Truck-mounted haystack moving equipment, provided such equipment does not exceed a length of fifty-six feet [17.07 meters].
 - (6) A truck tractor and semitrailer or truck tractor, semitrailer and the trailer when operated on the interstate highway system or parts of the federal aid primary system as designated by the director, only when federal law requires the exemption.
 - (7) Safety and energy conservation devices and any additional length exclusive devices as determined by the highway patrol for the safe and efficient operation of commercial motor vehicles. Length exclusive devices are appurtenances at the front or rear of a commercial motor vehicle semitrailer or trailer, whose function is related to the safe and efficient operation of the semitrailer or trailer.
- 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].

~~4 to 7. Repealed by S.L. 1975, ch. 322, § 2.~~

Approved March 10, 1995
Filed March 13, 1995

CHAPTER 383**SENATE BILL NO. 2265**

(Senators St. Aubyn, Lee, Watne)
(Representatives Berg, Delmore, Nottestad)

SALE OF USED MOBILE HOMES

AN ACT to amend and reenact sections 39-18-07 and 39-18-08 of the North Dakota Century Code, relating to the sale by real estate brokers or salespeople of used mobile homes and to penalties; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-18-07 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-18-07. Penalty. Any person ~~who violates the provisions violating a provision~~ of this chapter for which a penalty is not specifically provided is guilty of a class B misdemeanor.

SECTION 2. AMENDMENT. Section 39-18-08 of the North Dakota Century Code is amended and reenacted as follows:

39-18-08. Sales by real estate broker or ~~salesman~~ salesperson of used mobile home. Notwithstanding any other provision of law, a person licensed as a real estate broker or ~~salesman~~ salesperson may sell or offer to sell, buy or offer to buy, solicit prospective purchasers of, solicit or obtain listings of, or negotiate the purchase, sale, or exchange of any used mobile home. For the purposes of this section, a used mobile home is a mobile home which has been previously sold by a mobile home dealer. Any person, including a person licensed as a real estate broker or ~~salesman~~ salesperson, who obtains a listing for the sale or exchange of a used mobile home which is located in a mobile home park, as defined in section 23-10-01, shall provide notice of such listing within seven days after the listing is obtained, in writing, to the owner or operator of the mobile home park ~~and to the lender if there is a lien attached to the used mobile home by a security agreement or other document evidencing the lien.~~

No real estate broker who engages in the activities authorized by this section may maintain any place of business where two or more mobile homes are displayed and offered for sale by the broker, unless the broker is also licensed as a mobile home dealer pursuant to this chapter. A person who violates this section is guilty of an infraction.

Approved March 10, 1995

Filed March 13, 1995

CHAPTER 384**HOUSE BILL NO. 1163**

(Representative DeWitz)

(Senator O'Connell)

MOTOR VEHICLE SAFETY BELT EXEMPTION

AN ACT to amend and reenact section 39-21-41.4 of the North Dakota Century Code, relating to the requirement of safety belts for people with medical or physically disabling conditions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-21-41.4 of the 1994 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-21-41.4. Use of safety belts required in certain motor vehicles - Enforcement. Subject to the limitations of this section and section 39-21-41.5, a driver may not operate upon a highway a motor vehicle designed for carrying fewer than eleven passengers, which was originally manufactured with safety belts unless each front seat occupant is wearing a properly adjusted and fastened safety belt. This section does not apply to a child in a child restraint or seatbelt in accordance with section 39-21-41.2; to drivers of implements of husbandry; to operators of farm vehicles as defined in subsection 5 of section 39-04-19; to rural mail carriers while on duty delivering mail; to an occupant with a medical or physically disabling condition that prevents appropriate restraint in a safety belt, if a qualified physician states in a signed writing the nature of the condition and the reason restraint is inappropriate; or when all front seat safety belts are in use by other occupants. ~~From August 1, 1993, until December 31, 1993, only warning tickets may be issued for a violation of this section. A physician who, in good faith, provides a statement that restraint would be inappropriate is not subject to civil liability.~~

Approved April 7, 1995

Filed April 7, 1995

CHAPTER 385

SENATE BILL NO. 2223

(Senator Mutch)

FERTILIZER AND CHEMICAL TRANSPORTATION

AN ACT to amend and reenact subsection 2 of section 39-21-44 of the North Dakota Century Code, relating to the transportation of hazardous materials by fertilizer or agricultural chemical retailers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-21-44 of the North Dakota Century Code is amended and reenacted as follows:

2. The superintendent of the state highway patrol shall; ~~pursuant to chapter 28-32, adopt such rules as may be necessary~~ for the safe transportation of hazardous materials. Rules must duplicate or be consistent with current hazardous materials regulations of the United States department of transportation except that a fertilizer or agricultural chemical retailer, or a driver employed by a fertilizer or agricultural chemical retailer, is exempt from the provisions of title 49, Code of Federal Regulations, part 395, section 3, subsection b, relating to hours of service of drivers, and title 49, Code of Federal Regulations, part 395, section 8, requiring a driver's record of duty status, while exclusively engaged in the transportation of fertilizer or agricultural chemicals when the transportation is within a radius of fifty miles [80.47 kilometers] from the retailer's place of business and the employer maintains a daily record for each driver showing the time a driver reports for duty, the total number of hours a driver is on duty, and the time a driver is released from duty. The superintendent of the state highway patrol is ~~authorized to~~ may adopt the hazardous materials regulations by reference and any adoption must be construed to incorporate amendments as may be made from time to time. ~~Any proceeding under this section for issuing or modifying rules and regulations and determining compliance with rules and regulations of the superintendent of the state highway patrol must be conducted in accordance with chapter 28-32 and appeals may be taken as provided in chapter 28-32.~~

Approved March 24, 1995

Filed March 27, 1995

CHAPTER 386**HOUSE BILL NO. 1392**

(Representative Timm)

**DEPARTMENT OF TRANSPORTATION MOTOR
CARRIER REGULATION**

AN ACT to create and enact a new chapter to title 39 of the North Dakota Century Code, relating to motor carrier regulation by the department of transportation and enforcement by the highway patrol; and to provide a penalty.

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 created and enacted as follows:

Common household goods carrier defined. In this chapter, unless the context otherwise requires, "common household goods carrier" means any person that holds oneself out to the public as willing to undertake for hire to transport by motor vehicle from place to place the household goods of others who may choose to employ that person.

Application of chapter to intrastate commerce. This chapter applies to persons and motor vehicles engaged in intrastate commerce only to the extent permitted by the constitution and laws of the United States and this state.

Carriers must operate in accordance with law and rules. It is unlawful for any common household goods carrier to transport persons or property for hire unless:

1. The carrier has obtained the certificate or permit required by this chapter; and
2. The carrier complies with this chapter and any applicable rules adopted by the department.

Regulation of common household goods carriers by the department. The department may regulate common motor carriers of household goods except for transportation provided wholly within a city in this state or within a distance beyond the corporate limits of a city as determined by the department and:

1. May require the filing of tariffs and schedules; and
2. Shall supervise the relations between common household goods carriers and the public to comply with the provisions of this chapter.

Household goods carriers - Transportation of commodities. A carrier may specify, by tariff publication, the quantity or quantities of commodities the carrier is obliged to transport.

Household goods carrier - Certificate of public convenience - Temporary permit - Application. No common household goods carrier may operate within this state without having obtained from the department a certificate of public convenience and

necessity. An application must be upon the form prescribed by the department. The application must contain a financial statement.

Notice of opportunity for comment on application. Upon the filing of an application for a certificate of public convenience and necessity or permit, the department shall mail notice of opportunity for comment to the North Dakota motor carriers association and may send notice to appropriate news media.

Factors to be considered by department in granting certificate. Before granting a certificate to a common household goods carrier, the department shall take into consideration the fitness and ability of applicant to provide service and any other information the department determines appropriate.

Testimony - Issuance of certificate of permit - Conditions. A party opposing an application may offer written testimony if that party filed a protest within twenty days of receipt of the notice. The protest must state the objection. Based upon the evidence, the department may grant or deny, in whole or in part, the certificate or permit requested.

Reasonable rates to be made by household goods carriers. All charges by a common household goods carrier must be reasonable and may not be unlawfully discriminatory. A carrier shall operate at the rate set in its tariff and may not refund in any manner. The use of a tariff bureau to promulgate and file a proposed tariff creates no presumption that the carrier using the bureau is violating the Constitution of North Dakota. Rate reductions may be filed with the department effective on one or more day's notice. The department has the right to suspend rate reductions within thirty days of filing.

Certificates - Permits - Duration - Transfer. Certificates and permits issued to carriers by the department under this chapter remain in force subject to this chapter. Those certificates or permits are transferable only upon approval by the department, after notice to and opportunity for comment by all interested parties.

Fees - Household goods carrier. Every household goods carrier operating in this state, when applying for a certificate of public convenience and necessity or permit, shall pay a fee of one hundred dollars. The nonrefundable fee for an application for transfer of a certificate of public convenience and necessity is one hundred dollars.

Regulations furnished to holder of certificate or permit. The department shall mail each holder of a certificate or permit under this chapter the rules the department adopts to implement this chapter.

Insurance required of carrier - Liability of insurer. The department, before granting a certificate to any common motor carrier, shall require the owner or operator to procure public liability insurance. The conditions of the liability insurance must guarantee the payment of any loss or damage to property or on account of the death or injury to any person resulting from the negligence of the carrier. The carrier shall file the insurance policy with the department and the policy must be kept in full force. Upon failure of a carrier to maintain insurance required by this section, the department shall cancel the certificate. A certificate of any company authorized to write liability or property damage insurance in the state, in a form approved by the department and certifying that there is in effect a liability insurance policy required by this section, may be filed instead of the policy.

Deposit of fees. The department shall deposit monthly all fees collected under this chapter in the highway fund in the state treasury.

Enforcement of chapter. Any law enforcement officer may make an arrest for any violation of this chapter, and the state's attorney of the county in which the offense was committed shall prosecute the offender. The highway patrol shall enforce this chapter in any part of the state. Upon written request of the department or the highway patrol, the attorney general shall prosecute or assist in the prosecution of any person alleged to have violated this chapter or any rule adopted to implement this chapter.

Penalty. Any person who willfully violates this chapter, or any order or rule issued or adopted under this chapter, is guilty of an infraction.

Approved April 17, 1995

Filed April 18, 1995