

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

HOUSE BILL NO. 1182
(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to amend and reenact subsections 1 and 4 of section 23-07-01.1, subsection 1 of section 39-06-03.1, subsections 1, 2, and 3 of section 39-06-07.2, section 39-06-27, subsections 4, 6, and 7 of section 39-06-32, section 39-08-21, and subsection 1 of section 39-20-05 of the North Dakota Century Code, relating to reporting of physical or mental disorders to the department of transportation, nondriver photo identification cards, medical advice to the director, reporting of conviction, suspension, or revocation, or failure to appear by other jurisdictions, hearings on suspension or revocation for unlawful use of licenses, and medical qualifications exemptions for intrastate drivers; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1 and 4 of section 23-07-01.1 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. All physicians and other medical professionals may report immediately to the department of transportation in writing, the name, date of birth, and address of every person fourteen years of age or over coming before them for examination, attendance, care, or treatment when there is reasonable cause to believe that such person due to physical or mental reason is incapable of safely operating a motor vehicle or diagnosed as a case of a disorder defined as characterized by lapses of consciousness, gross physical or mental impairments.
4. Any physician or other medical professional who fails to make a report or who in good faith makes a report, gives an opinion or recommendation pursuant to this section, or participates in any proceeding founded upon this section is immune from any liability, civil or criminal, that might otherwise be incurred, as a result of such report, except for perjury.

SECTION 2. AMENDMENT. Subsection 1 of section 39-06-03.1 of 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~~ 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.

SECTION 3. AMENDMENT. Subsections 1, 2, and 3 of section 39-06-07.2 of the North Dakota Century Code are amended and reenacted as follows:

1. The director is authorized to seek professional medical advice from any physician or optometrist authorized to practice in this state, and to use that advice in decisions made by the director in regard to the issuance, renewal, suspension, revocation, or cancellation of driver's licenses pursuant to this chapter. The advice may be received in any manner deemed advisable by the director or the director's authorized agent.

2. In addition to advice sought and received pursuant to subsection 1, the director may consider information and advice received from an individual applicant's or driver's personal physician or optometrist. Any examination and report requested by the applicant or driver or required to be taken and provided by the director pursuant to this chapter must be at the expense of the applicant or driver.
3. Any physician or optometrist providing advice to the director or director's authorized agent pursuant to subsection 1 shall incur no liability for any opinion, recommendation, or advice provided.

SECTION 4. 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 jurisdiction. The 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 that~~ that person in a tribal court or 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. The director may act on a report of a conviction in tribal court received from any tribal law enforcement agency. 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 a tribal court or in another state which is equivalent to one of those offenses defined in section 39-06.1-05. ~~No~~ A suspension or revocation may not be imposed for convictions for driving under suspension or revocation on an Indian reservation or 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 or other authority of the other 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 on an Indian reservation or 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 that~~ which would require the director to suspend a nonresident's operating privileges had the accident occurred in this state, the director shall suspend the license of such the resident if the resident was the driver of a motor vehicle involved in such the accident. ~~Such~~ The suspension continues until such the resident furnishes evidence satisfactory to the director of the person's compliance with the laws of such the Indian reservation or the 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 5. AMENDMENT. Subsections 4, 6, and 7 of section 39-06-32 of the North Dakota Century Code are amended and reenacted as follows:

4. Refusal to submit to an implied consent chemical test on an Indian reservation or in another state. For purposes of this subsection the specific requirements for establishing a refusal used on the Indian reservation or in the other state may not be considered, and photostatic copies of the records of the other 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.
6. Failure, as shown by the certificate of the court, to appear in court or post and forfeit bond after signing a promise to appear, in violation of section 39-06.1-04, ~~or~~ willful violation of a written promise to appear in court, in violation of section 39-07-08, or violation of equivalent ordinances or laws in another jurisdiction. Upon resolution by the operator of the underlying cause for a suspension under this subsection, as shown by the certificate of the court, the director shall record the suspension separately on the driving record. This separate record is not available to the public.

7. An administrative decision on an Indian reservation or in another state that the licensee's privilege to drive on that Indian reservation or in that state is suspended or revoked because of a violation of that Indian reservation's or state's law forbidding motor vehicle operation with an alcohol concentration of at least ten one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, or because of a violation of that Indian reservation's or state's law forbidding the driving or being in actual physical control of a commercial motor vehicle while having an alcohol concentration of at least four one-hundredths of one percent by weight. The specific requirements for establishing the violation on the Indian reservation or in the other state may not be considered and certified copies of the records of the Indian reservation's or 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, if the violation does not involve a commercial motor vehicle. If the violation involves a commercial motor vehicle, the period of suspension must be the same as the period of suspension provided in section 39-06.2-10.

SECTION 6. AMENDMENT. Section 39-08-21 of the North Dakota Century Code is amended and reenacted as follows:

39-08-21. Medical qualifications exemption for intrastate drivers. Notwithstanding the adoption by the superintendent of the state highway patrol of federal motor carrier safety regulations pursuant to subsection 2 of section 39-21-46, the provisions of 49 CFR 391.41(b)(1)-(11) do not apply to a person who is qualified through a state medical waiver program to operate a commercial motor vehicle within the boundaries of this state or a person who:

1. Is otherwise qualified to operate a commercial motor vehicle and who possesses, on March 26, 1991, a class 1 license issued pursuant to section 39-06-14, as that section existed on June 30, 1989, or a class A license issued pursuant to chapter 39-06.2;
2. Operates a commercial motor vehicle only within the boundaries of this state;
3. Does not operate a motor vehicle used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued pursuant to the Hazardous Materials Transportation Act [49 U.S.C. App. 1801 et seq.]; and
4. Has a medical or physical condition which:
 - a. Would prevent such person from operating a commercial motor vehicle under federal motor carrier safety regulations contained in 49 CFR, Chapter III, subchapter B;
 - b. Existed on March 26, 1991, or at the time of the first required physical examination after that date; and
 - c. An examining physician has determined has not substantially worsened since March 26, 1991, or the time of the first required physical examination after that date.

SECTION 7. AMENDMENT. Subsection 1 of section 39-20-05 of the North Dakota Century Code is amended and reenacted as follows:

1. Before issuing an order of suspension, revocation, or denial under section 39-20-04 or 39-20-04.1, the director shall afford that person an opportunity for a hearing if the person mails a request for the hearing to the director within ten days after the date of issuance of the temporary operator's permit. The hearing must be held within ~~twenty-five~~ thirty days after the date of issuance of the temporary operator's permit, ~~but the hearing officer may extend the hearing to within thirty days after the issuance of the temporary operator's permit to accommodate the efficient scheduling of hearings.~~ If the hearing date is extended beyond ~~twenty-five~~ thirty days from the issuance of the temporary operator's permit, the director 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 director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state.

SECTION 8. EMERGENCY. Section 6 of this Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1182 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 88 Nays 0 Absent 10

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 48 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,
at _____ o'clock _____ M.

Secretary of State