

**SECOND ENGROSSMENT
with House Amendments**

Sixtieth
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2072

Introduced by

Industry, Business and Labor Committee

(At the request of Workforce Safety and Insurance)

1 A BILL for an Act to amend and reenact section 39-01-02, subsection 10 of section 65-05-08,
2 and sections 65-05-19 and 65-05.1-06.1 of the North Dakota Century Code, relating to
3 exceptions to the requirement of the state name display on motor vehicles, dependency
4 allowances, nondependency payments upon death, and rehabilitation awards; and to provide
5 for application.

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

7 **SECTION 1. AMENDMENT.** Section 39-01-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **39-01-02. Motor vehicles owned or leased by the state to display name on side of**
10 **vehicles - Exceptions - Penalty.** All motor vehicles owned and operated by the state, except
11 vehicles under the control of the central vehicle management system and the official vehicle for
12 use by the governor, must have displayed on each front door the words NORTH DAKOTA.
13 The words must be in letters four inches [10.16 centimeters] in height. Two and one-half
14 inches [6.35 centimeters] directly below those words there must be printed in letters one and
15 one-half inches [3.81 centimeters] in height the name of the state agency owning or leasing the
16 motor vehicle. The width of the display required by this section must be proportionate to the
17 required height. The color of the lettering must be in clear and sharp contrast to the
18 background. The state auditor shall include in the auditor's report to the governor and the
19 legislative assembly any instance of noncompliance with this section. The above requirements
20 do not apply to vehicles operated by the attorney general's office, the highway patrol, or
21 vehicles used principally in juvenile, parole, and placement service. The central vehicle
22 management system vehicles must display a window decal designed by the director. The
23 requirements of this section do not apply to special investigative unit vehicles operated by

1 workforce safety and insurance. The state highway patrol and all peace officers of this state
2 shall enforce this section.

3 **SECTION 2. AMENDMENT.** Subsection 10 of section 65-05-08 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 10. The organization shall pay to an employee receiving disability benefits a
6 dependency allowance for each child of the employee at the rate of ~~ten~~ fifteen
7 dollars per week per child. ~~Effective July 1, 1989, this rate must be paid to each~~
8 ~~eligible employee regardless of the date of injury.~~

9 **SECTION 3. AMENDMENT.** Section 65-05-19 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **65-05-19. Providing nondependency payments in certain cases.** If the death of an
12 employee with no surviving spouse or dependent children results from an injury within the time
13 specified in section 65-05-16, the organization shall pay a lump sum equal to five percent of the
14 maximum total death benefits specified in subsection 1 of section 65-05-17 to the ~~surviving~~
15 ~~nondependent child, or in equal shares to the surviving nondependent children. In the event~~
16 ~~that no nondependent child is living, the sum provided under this section must be paid in equal~~
17 ~~shares to the surviving parents of the deceased, and if there are none, then to the deceased~~
18 ~~employee's living brothers and sisters. If there are no living brothers or sisters, the sum under~~
19 ~~this section must be paid in equal shares to the surviving grandparents, if any, estate of the~~
20 deceased employee.

21 **SECTION 4. AMENDMENT.** Section 65-05.1-06.1 of the North Dakota Century Code
22 is amended and reenacted as follows:

23 **65-05.1-06.1. Rehabilitation award.**

24 1. Within sixty days of receiving the final vocational consultant's report, the
25 organization shall issue ~~an administrative order under chapter 28-32~~ a notice of
26 decision detailing the employee's entitlement to disability and vocational
27 rehabilitation services.

28 2. If the appropriate priority option is ~~short term or long term training~~ retraining, the
29 vocational rehabilitation award must be within the following terms:

30 a. For the employee's lost time, and in lieu of further disability benefits, the
31 organization shall award a rehabilitation allowance. The rehabilitation

- 1 allowance must be limited to the amount and purpose specified in the award,
2 and must be equal to the disability and dependent benefits the employee was
3 receiving, or was entitled to receive, prior to the award.
- 4 b. The rehabilitation allowance must include an additional twenty-five percent
5 when it is necessary for the employee to maintain two households, when it is
6 necessary for the employee to maintain two households and the employee
7 elects to commute to and from school on a daily basis rather than maintain a
8 second household and the distance from the employee's residence to the
9 school or training institution is at least thirty miles, or when the employee
10 meets other criteria established by the organization by rule.
- 11 c. The rehabilitation allowance must be limited to one hundred four weeks
12 except in cases of catastrophic injury, in which case additional rehabilitation
13 benefits may be awarded in the discretion of the organization. Catastrophic
14 injury includes:
- 15 (1) Paraplegia; quadriplegia; severe closed head injury; total blindness in
16 both eyes; or amputation of an arm proximal to the wrist or a leg
17 proximal to the ankle, caused by the compensable injury, which renders
18 an employee permanently and totally disabled without further
19 vocational retraining assistance; or
- 20 (2) Those employees the organization so designates, in its sole discretion,
21 provided that the organization finds the employee to be permanently
22 and totally disabled without further vocational retraining assistance.
23 There is no appeal from an organization decision to designate, or fail to
24 designate, an employee as catastrophically injured under this
25 subsection.
- 26 d. The rehabilitation award must include the cost of books, tuition, fees, and
27 equipment, tools, or supplies required by the educational institution. The
28 award may not exceed the cost of attending a public college or university in
29 the state in which the employee resides, provided an equivalent program
30 exists in the public college or university.

- 1 e. If the employee successfully concludes the rehabilitation program, the
2 organization may make, in its sole discretion, additional awards for actual
3 relocation expenses to move the household to the locale where the claimant
4 has actually located work.
- 5 f. If the employee successfully concludes the rehabilitation program, the
6 organization may make, in its sole discretion, an additional award, not to
7 exceed two months' disability benefit, to assist the employee with work
8 search.
- 9 g. If the employee successfully concludes the rehabilitation program, the
10 employee is not eligible for further vocational retraining or total disability
11 benefits unless the employee establishes a significant change in medical
12 condition attributable to the work injury which precludes the employee from
13 performing the work for which the employee was trained, or any other work
14 for which the employee is suited. The organization may waive this section in
15 cases of catastrophic injury defined by subdivision c.
- 16 h. If the employee successfully concludes the rehabilitation program, the
17 employee remains eligible to receive partial disability benefits, as follows:
- 18 (1) Beginning the date at which the employee completes retraining, until
19 the employee acquires and performs substantial gainful employment,
20 the partial disability benefit is sixty-six and two-thirds percent of the
21 difference between the injured employee's average weekly wages
22 before the injury, and the employee's wage-earning capacity after
23 retraining, as measured by the average wage in the employee's
24 occupation, according to criteria established by job service North
25 Dakota in its statewide labor market survey, or such other criteria the
26 organization, in its sole discretion, deems appropriate. The average
27 weekly wage must be determined on the date the employee completes
28 retraining. The benefit continues until the employee acquires
29 substantial gainful employment.
- 30 (2) Beginning the date at which the employee acquires substantial gainful
31 employment, the partial disability benefit is sixty-six and two-thirds

1 percent of the difference between the injured employee's weekly wages
2 before the injury, and the employee's wage-earning capacity after
3 retraining, as determined under paragraph 1, or the employee's actual
4 postinjury wage earnings, whichever is higher.

5 (3) The partial disability benefit payable under paragraphs 1 and 2 may not
6 exceed the limitation on partial disability benefits contained in section
7 65-05-10.

8 (4) The partial disability benefits paid under paragraphs 1 and 2 may not
9 together exceed one year's duration.

10 (5) For purposes of paragraphs 1 and 2, "substantial gainful employment"
11 means full-time bona fide work, for a remuneration, other than
12 make-work. "Full-time work" means employment for twenty-eight or
13 more hours per week, on average.

14 (6) The organization may waive the one-year limit on the duration of partial
15 disability benefits, in cases of catastrophic injury under subdivision c.

16 3. If the appropriate priority option is return to the same or modified position, or to a
17 related position, the organization shall determine whether the employee is eligible
18 to receive partial disability benefits pursuant to section 65-05-10. In addition, the
19 organization, when appropriate, shall make an additional award for actual
20 relocation expenses to move the household to the locale where the claimant has
21 actually located work.

22 **SECTION 5. APPLICATION.** The rate in subsection 10 of section 65-05-08 contained
23 in section 2 of this Act applies to each eligible employee on or after the effective date of this
24 Act. Section 3 of this Act applies to deaths occurring on or after the effective date of this Act.
25 Section 4 of this Act applies retroactively to all claims filed on or after January 1, 2006.