

TESTIMONY BEFORE  
ADMINISTRATIVE RULES COMMITTEE  
OF THE NORTH DAKOTA LEGISLATIVE COUNCIL  
JUNE 11, 2008  
FRANCIS G. ZIEGLER, DIRECTOR

N.D. ADMIN. Code Chapter	)	REPORT OF THE
37-09-01, Application and Requirements)	)	ND DEPARTMENT OF
of Disclosure, and Article 37-12, Motor	)	TRANSPORTATION
Vehicle Division	)	June 11, 2008
Pages 77-88	)	

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Good morning Mr. Chairman and Administrative Rules Committee. Through the administrative rules process the NDDOT made the following changes regarding the placement of the Motor Vehicle Division administrative rules. At one time, Motor Vehicle was a stand alone department. When Motor Vehicle was transferred to the NDDOT, the rules dealing with Motor Vehicle operations were not moved to the Article which deals with NDDOT operations. What we have before you today, is simply to bring the rules into compliance with where Motor Vehicle stands today. In addition, three sections from Title 52 were repealed. Specifically, the following changes were made:

- I. CLEAN UP OLD Rules – on the recommendation of state auditors and following the Legislative Council directive to review and update administrative code.
  - a. Moved Title 52 to Article 37-12.
  - b. Changed rule structure to conform with proper administrative rule format.
  - c. Deleted all references to Motor Vehicle Registrar – now refers to Motor Vehicle Division Director.
  - d. Repealed three sections in their entirety as they were either irrelevant or are now provided for in the N.D. Century Code.
- II. Change to current Title 37

- a. Definition of "damage" was deleted to conform to conform with N.D. Century Code where it is already located.
- b. Definition of "motor vehicle" changed to conform with N.D. Century Code.

In response to the May 23, 2008 letter from N.D. Legislative Council, the North Dakota Department of Transportation states:

1. The proposed amendments to N.D. Admin. Code Chapter 37-09-01 and new N.D. Admin. Code Article 37-12 were not a result of statutory changes made by the Legislative Assembly.
2. The proposed amendments to N.D. Admin. Code Chapter 37-09-01 and new N.D. Admin. Code Article 37-12 were made to comply with State Auditor's recommendations, to comply with Federal law, to provide for ease of use of the general public, and to clean up old, outdated rules, which were located in Title 52. Motor Vehicle Division rules are located in Title 52. In an effort to clean up the administrative rules and provide for ease of use, all rules located in Title 52 will be moved under Title 37. As part of this move, the rules in Title 52 were reviewed, old, outdated rules were repealed, minor corrections in language were made and definitions were updated to comply with current law.
3. The Department of Transportation published notice in all county newspapers advising generally of the content of the rulemaking, where copies of the proposed rules may be obtained for review, and stating the location, date, and time of the public hearing. The rules were also published on the NDDOT website.

The department conducts public hearings on all substantive rulemaking. Oral comments are recorded. Oral comments, as well as any written comments that have been received, are summarized and presented to the Department's executive director, together with any response to the comments that may seem appropriate and a re-drafted rule incorporating any change occasioned by the comments.

4. No oral comments were received at the public hearing held in Bismarck on November 13, 2007. No written comments were received by 5:00 p.m. on November 23, 2007.
5. The approximate cost of giving public notice, holding a hearing, and the cost (not including staff time) of developing and adopting the rules was \$1,900.00.
6. The rules were amended and repealed in order to comply with State Auditor's recommendations, to comply with Federal law, to provide for ease of use of the general public, and to clean up old, outdated rules, which were located in Title 52. Motor Vehicle Division rules are located in Title 52 of the Administrative Code. In an effort to clean up the administrative rules and provide for ease of use, all rules located in Title 52 were moved under Title 37. As part of this move, the rules in Title 52 were reviewed, old, outdated rules were repealed, minor corrections in language were made and definitions were updated to comply with current law.

The following specific changes to N.D. Admin. Code Chapter 37-09-01 were made:

- Section 37-09-01-01, Definitions, to repeal the definition of “damage,” and amend the definition of “motor vehicle”;
- Section 37-09-01-03, Damage disclosure statement-When required, to change the length of time from “four” to “seven” years;

The changes to existing N. D. Admin. Code Title 52, now new Article 37-12, Motor Vehicle Division were made:

- Existing Article 52-01, General Administration, was repealed in its entirety.
- Existing Article 52-02, Motor Vehicle Dealer Licensing, became new Chapter 37-12-01, Motor Vehicle Dealer Licensing.
- Existing Chapter 52-02-01, General Considerations and Dealer Qualification, became new Section 37-12-01-01, General Considerations and Dealer Qualifications.
- Existing Section 52-02-01-01, Definitions, became new Section 37-12-01-01(1), Definitions. It was amended to reflect a technical correction from “article” to “chapter.”
- Existing Sections 52-02-01-02, Dealer Information Required; 52-02-01-03, Additional Information; 52-02-01-04, Copy of Contract or Franchise; and 52-02-01-05, Bond Required, were repealed December 1, 1982, and are not needed as part of the new section.
- Existing Section 52-02-01-06, Dealer’s License Certificate, became new Section 37-12-01-01(2), Dealer’s License Certificate, and was amended to change reference of “registrar” to “motor vehicle division director,” and to update MVD forms used.

- Existing Chapter 52-02-02, Suspension, Cancellation, or Revocation of Dealer's License, was repealed in its entirety.
- Existing Article 52-03, Motorcycle Safety Helmets, was repealed in its entirety.
- Existing Article 52-04, Special Motor Vehicles, became new Chapter 37-12-02, Special Motor Vehicles.
- Existing Chapter 52-04-01, General Considerations, became new Section 37-12-02-01, General Considerations. It was amended to reflect technical corrections from "article" to "chapter" and to change "registrar" to "division director."
- Existing Chapter 52-04-02, Body Requirements, became new Section 37-12-02-02, Body Requirements. The language remained the same, with technical corrections for new format.
- Existing Chapter 52-04-03, Chassis Requirements, became new Section 37-12-02-03, Chassis Requirements. The language remained the same, with technical corrections for new format.
- Existing Chapter 52-04-04, Electrical System Requirements, became new Section 37-12-02-04, Electrical System Requirements-Horn. The language remained the same.
- Existing Article 52-05, Compulsory Security Requirements of the North Dakota Auto Accident Reparations Act, became new Chapter 37-12-03, Compulsory Security Requirements of the North Dakota Auto Accident Reparations Act.
- Existing Chapter 52-05-01, Definitions, became new Section 37-12-03-01, Definitions. It was amended to reflect a technical correction from "article" to "chapter" and to correct the North Dakota Century Code citation.
- Existing Chapter 52-05-02, Information, becomes new Section 37-12-03-02, Information Requirements. It was

amended to change "registrar" to "motor vehicle division director" and change the MVD forms to current SFN forms.

- Existing Chapter 52-05-03, Suspension and Surrender of Registration Certificate and License Plates, became new Section 37-12-03-03, Suspension and Surrender of Registration Certificate and License Plates. It was amended to change "registrar" to "motor vehicle division director."
- Existing Article 52-06, Transport of Hazardous Materials, was repealed as the result of S.L. 1983, ch. 447, § 1 and is not needed as part of the new rules.
- Existing Article 52-07, Obtaining Certificate of Title for Untitled Vehicles, becomes new Chapter 37-12-04, Obtaining Certificate of Title for Untitled Vehicles.
- Existing Chapter 52-07-01, General Considerations and Requirements, became new Section 37-12-04-01, Procedure, and was amended to change "department" to "division," remove "North Dakota," and to change name and MVD form to current name and SFN form.
- Existing Article 52-08, Inspection of Salvage Vehicles, becomes new Chapter 37-12-05, Inspection of Salvage Vehicles.
- Existing Chapter 52-08-01, General Considerations and Requirements, became new Section 37-12-05-01, Procedure, and was amended to change the MVD form to existing SFN form.

7. No written requests for regulatory analysis have been filed by the governor or by any agency. The rule amendments are not expected to have an impact on the regulated community in excess of \$50,000. A regulatory analysis was prepared and is attached to this report.

8. A small entity regulatory analysis and small entity economic impact statement were prepared and are attached to this report.
9. A constitutional takings assessment was prepared and is attached to this report.
10. These rules were not adopted as emergency (interim final) rules.

Thank you for the opportunity to present these change to you today.

## **REGULATORY ANALYSIS**

**The North Dakota Department of Transportation and the Motor Vehicle Division believe the proposed amendments to Chapter 37-09-01 and new Chapter 37-12 apply vehicle owners, motor carriers, and dealers. The proposed amendments and new chapter are being written to conform to current law and to move all Motor Vehicle Division rules under Article 37 of the North Dakota Administrative Code. The proposed rules will not have a substantial regulatory impact over \$50,000 on the regulated community. There are no administrative or other costs required of small entities. There is no effect on state revenues.**



## **SMALL ENTITY REGULATORY ANALYSIS**

**The North Dakota Department of Transportation and the Motor Vehicle Division believe the proposed amendments to Chapter 37-09-01 and new Chapter 37-12 apply to vehicle owners, motor carriers, and dealers. The proposed amendments and new chapter are being written to conform to current law and to move all Motor Vehicle Division rules under Article 37 of the North Dakota Administrative Code. We believe the proposed changes will not have a substantial small entity regulatory impact.**

## **SMALL ENTITY ECONOMIC IMPACT STATEMENT**

**The North Dakota Department of Transportation and the Motor Vehicle Division believe the proposed amendments to Chapter 37-09-01 and new Chapter 37-12 apply to vehicle owners, motor carriers, and dealers. The proposed amendments and new chapter are being written to conform to current law and to move all Motor Vehicle Division rules under Article 37 of the North Dakota Administrative Code. We believe the proposed changes will not have and adverse economic impact on small entities.**

## **TAKING ASSESSMENT**

**The North Dakota Department of Transportation and the Motor Vehicle Division believe the proposed amendments to Chapter 37-09-01 and new Chapter 37-12 apply to vehicle owner, motor carriers, and dealers. The proposed amendments and new chapter are being written to conform to current law and to move all Motor Vehicle Division rules under Article 37 of the North Dakota Administrative Code. The proposed changes will not limit the use of private real property.**