

**BILL NO.**

Introduced by

Senator Armstrong

1 A BILL for an Act to amend and reenact section 39-20-01 of the North Dakota Century Code,  
2 relating to the duty to inform of the consequences of refusing a test to determine alcohol  
3 concentration and presence of drugs.

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

5 **SECTION 1. AMENDMENT.** Section 39-20-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **39-20-01. Implied consent to determine alcohol concentration and presence of drugs.**

- 8 1. Any individual who operates a motor vehicle on a highway or on public or private  
9 areas to which the public has a right of access for vehicular use in this state is deemed  
10 to have given consent, and shall consent, subject to the provisions of this chapter, to a  
11 chemical test, or tests, of the blood, breath, or urine for the purpose of determining the  
12 alcohol concentration or presence of other drugs, or combination thereof, in the  
13 individual's blood, breath, or urine. As used in this chapter, the word "drug" means any  
14 drug or substance or combination of drugs or substances which renders an individual  
15 incapable of safely driving, and the words "chemical test" or "chemical analysis" mean  
16 any test to determine the alcohol concentration or presence of other drugs, or  
17 combination thereof, in the individual's blood, breath, or urine, approved by the  
18 director of the state crime laboratory or the director's designee under this chapter.
- 19 2. The test or tests must be administered at the direction of a law enforcement officer  
20 only after placing the individual, except individuals mentioned in section 39-20-03,  
21 under arrest and informing that individual that the individual is or will be charged with  
22 the offense of driving or being in actual physical control of a vehicle upon the public  
23 highways while under the influence of intoxicating liquor, drugs, or a combination  
24 thereof. For the purposes of this chapter, the taking into custody of a child under

1 section 27-20-13 or an individual under twenty-one years of age satisfies the  
2 requirement of an arrest.

3 3. a. The law enforcement officer shall inform the individual charged that North Dakota  
4 law requires the individual to take the test to determine whether the individual is  
5 under the influence of alcohol or drugs; that refusal to take the test directed by  
6 the law enforcement officer is a crime punishable in the same manner as driving  
7 under the influence; and that refusal of the individual to submit to the test directed  
8 by the law enforcement officer may result in a revocation for a minimum of one  
9 hundred eighty days and up to three years of the individual's driving privileges.  
10 The law enforcement officer shall determine which of the tests is to be used.

11 b. A test administered under this section is not admissible in any criminal or  
12 administrative proceeding to determine a violation of section 39-08-01 or this  
13 chapter unless the law enforcement officer provides the individual charged with  
14 the information required under subdivision a.

15 4. When an individual under the age of eighteen years is taken into custody for violating  
16 section 39-08-01 or an equivalent ordinance, the law enforcement officer shall attempt  
17 to contact the individual's parent or legal guardian to explain the cause for the custody.  
18 Neither the law enforcement officer's efforts to contact, nor any consultation with, a  
19 parent or legal guardian may be permitted to interfere with the administration of  
20 chemical testing requirements under this chapter. The law enforcement officer shall  
21 mail a notice to the parent or legal guardian of the minor within ten days after the test  
22 results are received or within ten days after the minor is taken into custody if the minor  
23 refuses to submit to testing. The notice must contain a statement of the test performed  
24 and the results of that test; or if the minor refuses to submit to the testing, a statement  
25 notifying of that fact. The attempt to contact or the contacting or notification of a parent  
26 or legal guardian is not a precondition to the admissibility of chemical test results or  
27 the finding of a consent to, or refusal of, chemical testing by the individual in custody.