

Introduced by

Senators Kilzer, Warner

Representatives Kretschmar, Nathe

1 A BILL for an Act to amend and reenact sections 19-01-10 and 19-03.1-37 of the North Dakota
2 Century Code, relating to reports issued by the state crime laboratory.

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

4 **SECTION 1. AMENDMENT.** Section 19-01-10 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **19-01-10. Department to make analyses, inspections, and examinations - Report of**
7 **examination as evidence - Publication of report.**

8 The department shall make, or cause to be made, analyses, examinations, and inspections
9 of all products, articles, compositions, or things included under this title whenever such
10 analyses, inspections, or examinations are necessary to determine whether any of such
11 products, articles, compositions, or things violate this title relating to the products, articles,
12 compositions, or things in question, or violate any definition, standard, tolerance, rule, or
13 regulation issued with regard to such products, articles, compositions, or things pursuant to any
14 provision contained in this title. However, the state crime laboratory shall make or cause to be
15 made, analysis, examination, inspection, or test of any product, article, composition, or thing at
16 the request of any prosecutor, defense counsel, or law enforcement officer in the state of North
17 Dakota when such analysis, examination, inspection, or test is made in connection with an
18 investigation into violations of the criminal law of this state. A copy of any report issued by the
19 department or the state crime laboratory, or electronically posted by the director of the state
20 crime laboratory or the director's designee on the crime laboratory information management
21 system and certified by a law enforcement officer or individual who has authorized access to the
22 crime laboratory information management system through the criminal justice data information
23 sharing system, of the examination or analyses of any product, article, composition, or thing,
24 duly authenticated by the person making the analysis or examination, when given under oath, is

1 prima facie evidence in all courts of the matters and facts therein contained. The department
2 may collect samples of any product, article, composition, or thing for the purpose of making
3 analyses, inspections, and investigations in connection with research carried on by it and may
4 publish the reports thereof for the information of the public.

5 **SECTION 2. AMENDMENT.** Section 19-03.1-37 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **19-03.1-37. Burden of proof - Liabilities.**

- 8 1. It is not necessary for the state to negate any exemption or exception in this chapter in
9 any complaint, information, indictment, or other pleading or in any trial, hearing, or
10 other proceeding under this chapter. The burden of proof of any exemption or
11 exception is upon the person claiming it.
- 12 2. In the absence of proof that a person is the duly authorized holder of an appropriate
13 registration or order form issued under this chapter, the person is presumed not to be
14 the holder of the registration or form. The burden of proof is upon the person to rebut
15 the presumption.
- 16 3. No liability is imposed by this chapter upon any authorized state, county, or municipal
17 officer engaged in the lawful performance of the officer's duties.
- 18 4. In all prosecutions under this chapter, chapter 19-03.2, or chapter 19-03.4 involving
19 the analysis of a substance or sample thereof, a certified copy of the analytical report
20 signed by the director of the state crime laboratory or the director's designee, or
21 electronically posted by the director of the state crime laboratory or the director's
22 designee on the crime laboratory information management system and certified by a
23 law enforcement officer or individual who has authorized access to the crime
24 laboratory information management system through the criminal justice data
25 information sharing system, must be accepted as prima facie evidence of the results of
26 the analytical findings.
- 27 5. Superseded by N.D.R.Ev., Rule 707.
- 28 6. In all cases of conspiracy to violate chapter 19-03.1, 19-03.2, or 19-03.4, the state is
29 not required to prove or establish that a conspirator knew the other person to the
30 agreement intended to deliver or possess with intent to deliver a controlled substance,
31 an imitation controlled substance, or drug paraphernalia to a third person.