

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2352**

Introduced by

Senators Oehlke, Rust

1 A BILL for an Act to amend and reenact sections 39-10-47 and 39-10-48 of the North Dakota
2 Century Code, relating to vehicles obstructing highways and vehicles illegally parked on
3 highways.

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

5 **SECTION 1. AMENDMENT.** Section 39-10-47 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **39-10-47. Stopping, standing, or parking outside of business or residence districts.**

- 8 1. ~~Upon any highway outside of a business or residence district no person~~An individual
9 may not stop, park, or leave standing any vehicle, whether attended or unattended,
10 upon the paved or main-traveled part of ~~the~~any highway ~~when~~if it is practicable to
11 stop, park, or so leave ~~such~~the vehicle off ~~such part of said~~the paved or main-traveled
12 part of the highway, ~~but in every event an.~~ There must be an unobstructed width of the
13 highway of not less than twelve feet [3.66 meters] opposite a standing vehicle ~~must be~~
14 left for the free passage of other vehicles and a clear view of ~~such~~any stopped
15 ~~vehicles~~vehicle must be available from a distance of not less than two hundred feet
16 [60.96 meters] in each direction upon ~~such~~the highway.
- 17 2. ~~This~~Unless the vehicle is blocking the highway or is otherwise endangering public
18 safety, this section and sections 39-10-49 and 39-10-50 do not apply to the driver of
19 ~~any~~a vehicle which is disabled while on the paved or main-traveled portion of a
20 highway ~~in such manner and to such extent that it is impossible to avoid, if~~ stopping
21 and temporarily leaving ~~such~~the disabled vehicle ~~in such position is unavoidable.~~
- 22 3. Without the consent of the owner or driver of a vehicle and if a vehicle or any personal
23 property or cargo spilled from the vehicle is blocking the highway or is otherwise
24 endangering public safety, a police officer may:

- 1 a. Remove the vehicle or cause the vehicle to be removed from the highway; and
2 b. Remove or cause to be removed any personal property or cargo that may have
3 been spilled from the vehicle onto the highway.
- 4 4. If reasonable care is used in the removal process, a police officer and the police
5 officer's employing agency, the department of transportation or an employee of the
6 department of transportation, or a political subdivision or employee of a political
7 subdivision authorized by a police officer is not liable in civil damages for loss or
8 damage to any vehicle or to any personal property or cargo that may have spilled from
9 a vehicle that is removed from a highway under this section.
- 10 5. The decision and method used to remove a vehicle or any personal property, or cause
11 a vehicle or any personal property to be removed, is a discretionary decision under
12 this section. In the event of a public necessity, a police officer, an employee of the
13 department of transportation, or an employee of a political subdivision authorized by a
14 police officer may take an action that may damage a vehicle or property removed
15 under this section.

16 **SECTION 2. AMENDMENT.** Section 39-10-48 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **39-10-48. Officer authorized to remove illegally stopped vehicle.**

- 19 1. ~~Whenever any~~If a police officer finds a vehicle standing upon a highway in violation of
20 ~~any of the provisions of section 39-10-47, such~~the officer is hereby authorized to move
21 ~~such~~may remove the vehicle; or require the driver or other person in charge of the
22 vehicle to move the ~~same~~vehicle to a position off the paved or main-traveled part of
23 ~~such~~the highway to a place where the vehicle does not block the highway or otherwise
24 endanger public safety.
- 25 2. ~~Whenever any~~If a police officer finds a vehicle unattended upon any highway, bridge,
26 ~~or causeway, or in any tunnel where such~~ and the vehicle constitutes an obstruction
27 ~~to~~may obstruct traffic or otherwise endanger public safety, suchthe officer is hereby
28 authorized to provide for the removal of ~~such~~may have the vehicle moved to the
29 ~~nearest garage or other place of safety~~a location where it may be securely held.
- 30 3. ~~Any~~A police officer is hereby authorized to remove or cause to be removed to the
31 ~~nearest garage or other place of safety~~may remove or cause to be removed any

- 1 vehicle found upon a highway ~~when and~~ move the vehicle to any location where the
2 vehicle may be securely held if:
- 3 a. A report has been made ~~that such~~ the vehicle has been stolen or taken without
4 the consent of its owner;
- 5 b. The ~~person or persons in charge~~ owner or driver of ~~such~~ the vehicle ~~are~~ is unable
6 to provide for its custody or removal; or
- 7 c. The ~~person~~ individual driving or in control of ~~such~~ the vehicle is arrested for an
8 alleged offense ~~for which the officer is required by law to take the person arrested~~
9 ~~before a proper magistrate without unnecessary delay~~ and taken into custody and
10 another individual is not available to lawfully operate the vehicle.
- 11 4. ~~Whenever any authorized law enforcement~~ If a police officer finds, on state charitable-
12 ~~or penal institution property or on the state capitol grounds,~~ a vehicle standing,
13 stopped, or parked in a dangerous location or in violation of any official traffic-control
14 device prohibiting or restricting the stopping, standing, or parking of any vehicle on
15 state property, the officer shall place a written warning on the vehicle for the first
16 offense ~~and thereafter an authorized traffic citation may be issued~~ issue a traffic citation
17 for a subsequent violation. However, ~~no~~ a traffic citation may not be issued for a
18 violation of this subsection occurring on the state capitol grounds during a legislative
19 session.
- 20 5. A police officer and the police officer's employing agency, the department of
21 transportation or an employee of the department of transportation, or a political
22 subdivision or employee of a political subdivision authorized by a police officer is not
23 liable in civil damages for loss or damage to any vehicle removed from a highway or
24 state property under this section, so long as reasonable care is used in the removal
25 process.
- 26 6. The decision and method used to remove a vehicle or any personal property, or cause
27 a vehicle or any personal property to be removed, is a discretionary decision under
28 this section. In the event of a public necessity, a police officer, an employee of the
29 department of transportation, or an employee of a political subdivision authorized by a
30 police officer may take an action that may damage a vehicle or property removed
31 under this section.