

MOTOR VEHICLES

CHAPTER 255

HOUSE BILL NO. 1105

(Political Subdivisions Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact subsection 2 of section 39-01-01 of the North Dakota Century Code, relating to the definitions of emergency vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹² **SECTION 1. AMENDMENT.** Subsection 2 of section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Authorized emergency vehicles":
 - a. "Class A" authorized emergency vehicles means:
 - (1) Vehicles of a governmentally owned fire department.
 - (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title or by a salaried employee of a municipal police department within the municipality or by a sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of class A authorized emergency vehicles.
 - (3) Vehicles clearly identifiable as property of the department of corrections and rehabilitation when operated or under the control of the director of the department of corrections and rehabilitation.
 - (4) Ambulances and other vehicles authorized by licensure granted under chapter 23-27.
 - (5) Vehicles operated by or under the control of the director, district deputy director, or a district deputy game warden of the game and fish department.
 - (6) Vehicles owned or leased by the United States and used for law enforcement purposes.
 - (7) Vehicles designated for the use of the adjutant general or assistant adjutant general in cases of emergency.

¹¹² Section 39-01-01 was also amended by section 1 of House Bill No. 1128, chapter 256.

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- (8) Vehicles operated by or under the control of the director of the parks and recreation department.
 - (9) Vehicles operated by or under the control of a licensed railroad police officer and used for law enforcement purposes.
 - (10) Vehicles operated by or under the control of the state forester.
 - (11) Vehicles operated by or under the control of the bureau of criminal investigation and used for law enforcement purposes.
 - (12) Vehicles operated by or under the control of the state department of health in cases of emergencies.
- b. "Class B" authorized emergency vehicles means wreckers and such other emergency vehicles as are authorized by the local authorities.
 - c. "Class C" authorized emergency vehicles means:
 - (1) Vehicles used by the state division of homeland security or local division of emergency management organizations.
 - (2) Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.
 - (3) Vehicles, other than ambulances, used by emergency medical services personnel.

Approved March 2, 2017

Filed March 3, 2017

CHAPTER 256

HOUSE BILL NO. 1128

(Transportation Committee)

(At the request of the Department of Transportation)

AN ACT to create and enact a new subsection to section 39-01-01 and section 39-06-14.2 of the North Dakota Century Code, relating to the definition of primary source identity document and driver's license central identity management; and to amend and reenact sections 39-06-01, 39-06-03.1, 39-06-07.1, and 39-06-18, subsection 5 of section 39-06-19, and sections 39-06-20 and 39-06.2-08 of the North Dakota Century Code, relating to operator's license and nondriver identification card criteria, license renewals, notice of change of address or name, and the application for commercial driver's license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹³ **SECTION 1.** A new subsection to section 39-01-01 of the North Dakota Century Code is created and enacted as follows:

"Primary source identity document" means documentary evidence of an individual's name, date of birth, and legal presence required in chapters 39-06 and 39-06.2 related to the issuance of permits, licenses, and nondriver photo identification cards, and retained in the driver record.

SECTION 2. AMENDMENT. Section 39-06-01 of the North Dakota Century Code is amended and reenacted as follows:

39-06-01. Operators must be licensed - Additional licensing - Penalty.

1. An individual, unless exempted in this section, may not drive any motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state unless the individual has a valid license as an operator under this chapter or a temporary operator's permit issued under chapter 39-20. An individual may not receive an operator's license ~~unless and/or a nondriver identification card~~ until that individual surrenders to the director all operator's licenses and, permits, and ~~nondriver photo identification cards~~ issued to that individual by any ~~jurisdictionstate or country~~. If a license issued by another ~~jurisdictionstate~~ is surrendered, the director shall notify the issuing ~~jurisdictionstate~~ of the surrender. An individual may ~~not have more than one be issued either a valid operator's license or a nondriver identification card~~ at any one time, ~~but not both~~.
2. An individual licensed as an operator may exercise the privilege granted by the license on any highway in this state and may not be required to obtain any other license to exercise the privilege by any political subdivision having authority to adopt police regulations, except that municipalities may regulate occupations and may regulate the operation of taxicabs under subsection 27 of section 40-05-01.

¹¹³ Section 39-01-01 was also amended by section 1 of House Bill No. 1105, chapter 255.

¹¹⁴ **SECTION 3. AMENDMENT.** Section 39-06-03.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-03.1. Nondriver photo identification card issued by director - Release of information - Penalty - Public awareness.

1. The director shall issue a nondriver color photo identification card to any resident of this state who fulfills the requirements of this section. An application for an identification card must be made on a form furnished by the director. Within thirty days from receipt of a complete application that includes the applicant's social security number, unless the applicant is a nonimmigrant who is not eligible for a social security number, the director shall determine whether to issue and, if appropriate, issue a nondriver photo identification card to an applicant. The director may not withhold the issuance of a nondriver color photo identification card without reasonable cause. If the applicant is under the age of eighteen or at least the age of eighteen and under the age of twenty-one, the photo must be against the same color background required on a motor vehicle operator's license for an operator of that age. Subject to section 39-06-19, identification cards expire eight years from the date of issue and may be renewed. The application must contain other information as the director may require to improve identity security.
2. To confirm the identity, date of birth, and legal presence of the applicant, the director or examining officer shall require satisfactory evidence be provided by the applicant. Satisfactory evidence includes a certified copy of the applicant's birth certificate or other evidence reasonably calculated to permit the determination of the date of birth, identification, and legal presence of the applicant by the director or examining officer. The director may require an applicant for an identification card to provide a social security card and proof of residence address.
3. The application fee is listed in section 39-06-49. Except for a duplicate or replacement card or a card under subsection 7, the director may not charge a fee to provide a nondriver photo identification card to an eligible applicant.
4. Any information obtained by the director from an applicant for the issuance, renewal, or replacement of an identification card may not be released unless allowed under section 39-16-03.
5. The director may advertise the availability and the use of the card.
6. Identification cards issued under this section are sufficient identification for all identification purposes.
7. ~~An individual who possesses a driver's license may obtain a nondriver photo identification card.~~

¹¹⁵ **SECTION 4. AMENDMENT.** Section 39-06-07.1 of the North Dakota Century Code is amended and reenacted as follows:

¹¹⁴ Section 39-06-03.1 was also amended by section 10 of House Bill No. 1369, chapter 152.

¹¹⁵ Section 39-06-07.1 was also amended by section 11 of House Bill No. 1369, chapter 152.

39-06-07.1. Proof of name, date of birth, and legal presence for operator's license application - Primary source identity documents.

1. An applicant must verify the applicant's name, date of birth, and legal presence on any application by a certified birth certificate or any other documentary evidence that confirms to the satisfaction of the director the true identity, date of birth, and legal presence of the applicant.
2. Primary source identity documents retained by the department are not public records.

SECTION 5. Section 39-06-14.2 of the North Dakota Century Code is created and enacted as follows:

39-06-14.2. Driver license central identity management.

1. The director shall provide central identity management for all state agencies for citizens who possess a nondriver photo identification card or driver's license utilizing driver record data.
2. The director will provide access for identity verification. The director may not allow entities to transfer or collect identification data from the driver's license database, but shall create processes and procedures that enable verification of data without direct release of the data, except as authorized in chapter 39-33.
3. The director shall develop procedures to comply with this section.

SECTION 6. AMENDMENT. Section 39-06-18 of the North Dakota Century Code is amended and reenacted as follows:

39-06-18. Substitute operator's license.

If an operator's license or nondriver photo identification card issued under this chapter is lost, mutilated, or destroyed, or contains erroneous information due to a change in name, address, or for any other reason, the individual to whom the operator's license or identification card was issued may obtain a substitute, by furnishing proof satisfactory to the director that the operator's license or identification card has been lost, mutilated, or destroyed, or is erroneous, providing documentation that confirms to the satisfaction of the director the true identity, date of birth, and legal presence of the applicant and provide a social security card or other satisfactory evidence of a social security number and proof of residence address, if not previously completed or if there are changes to the information already on file, and upon payment of a fee listed in section 39-06-49. If an individual has a name change, the individual shall obtain a substitute license or identification card with the correct name.

¹¹⁶ **SECTION 7. AMENDMENT.** Subsection 5 of section 39-06-19 of the North Dakota Century Code is amended and reenacted as follows:

5. An applicant for renewal must present the application with the fee for renewal of license to the director not before ten months ~~before~~prior to the expiration date of the operator's license. The director may require an examination of an applicant as upon an original application. The director may require an applicant for renewal or a substitute to provide ~~a social security card and proof~~

¹¹⁶ Section 39-06-19 was also amended by section 1 of House Bill No. 1299, chapter 264.

~~of residence address documentation that confirms to the satisfaction of the director the true identity, date of birth, and legal presence of the applicant and provide a social security card or other satisfactory evidence of a social security number and proof of residence address, if not previously completed or if there are changes to the information already on file.~~ The director may not issue a distinguishing number that is, contains, can be converted to, or is an encrypted version of the applicant's social security number.

SECTION 8. AMENDMENT. Section 39-06-20 of the North Dakota Century Code is amended and reenacted as follows:

39-06-20. Notice of change of address or name.

If an individual after applying for or receiving an operator's license or identification card moves from the address named in ~~the application or~~ on the license or identification card, or if the name of a licensee is changed by marriage or otherwise, that individual within ten days after moving or the name change shall notify the director in writing or in person of that individual's old and new addresses or of the individual's former and new names and of the number of any operator's license or identification card then held by that person. An individual may obtain a corrected operator's license or identification card for address only changes, but must obtain a new operator's license or identification card for a name change. by making an application as provided for in section 39-06-18. The department may change the address based on information received from any authorized address correction service of the United States postal service. The department may also develop procedures for receiving notification of address changes by telephone ~~or~~ electronic means.

SECTION 9. AMENDMENT. Section 39-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-08. Application for commercial driver's license.

1. The application for a commercial driver's license or commercial learner's permit must include the following:
 - a. The full name and current residence and mailing address of the applicant;
 - b. A physical description of the applicant, including sex, height, weight, and eye and hair color;
 - c. Date of birth;
 - d. The applicant's social security number, unless the application is for a nondomiciled commercial driver's license and the applicant is a resident of a foreign jurisdiction;
 - e. The applicant's signature;
 - f. The certifications including those required by 49 CFR part 383.71;
 - g. Any other information required by the director; and
 - h. A consent to release driving record information.

2. The application must be accompanied by an application fee listed in section 39-06.2-19. The application must contain any other information as the director may require to improve identity security. The director ~~may~~shall require an applicant for a commercial license or commercial learner's permit to provide a ~~social security card and proof of residence address~~documentary evidence that confirms to the satisfaction of the director the true identity, date of birth, and legal presence of the applicant and provide a social security card or other satisfactory evidence of a social security number and proof of residence address, if not previously provided or if there are changes to the information already on file.
3. When the holder of a commercial driver's license changes the holder's name or ~~mailing~~residence address, an application for a ~~duplicate~~substitute license must be made under section 39-06-18.
4. Any individual who knowingly falsifies information or certifications required under subsection 1 is subject to suspension, revocation, cancellation, or disqualification of the individual's commercial driver's license or pending application for a period of at least sixty consecutive days.

Approved April 3, 2017

Filed April 4, 2017

CHAPTER 257

HOUSE BILL NO. 1211

(Representatives Boschee, Rick C. Becker, Dobervich, Guggisberg, Jones, M. Nelson, O'Brien)
(Senators Campbell, Clemens, Laffen, Nelson)

AN ACT to amend and reenact section 39-01-15 and subsection 1 of section 39-06.1-06 of the North Dakota Century Code, relating to parking spaces for mobility-impaired individuals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁷ **SECTION 1. AMENDMENT.** Section 39-01-15 of the North Dakota Century Code is amended and reenacted as follows:

39-01-15. Parking privileges for mobility impaired - Certificate - Revocation - Continuing appropriation - Penalty.

1. ~~Any~~^A mobility-impaired individual who displays prominently upon an ~~automobile~~^{a motor vehicle} parked by that individual or under that individual's direction and for that individual's use, the distinguishing certificate specified in subsection 4, license plates issued under section 39-04-10.2, or a disabled veteran plate issued under subdivision j of subsection 2 of section 39-04-18 is entitled to courtesy in the parking of the ~~automobile~~^{motor vehicle}. However, any municipality may prohibit, by ordinance, parking on any highway for the purpose of creating a fire lane or to provide for the accommodation of heavy traffic during morning and afternoon rush hours. The privileges extended to a mobility-impaired individual do not apply on a highway if parking is prohibited.
2. A mobility-impaired individual as used in this section includes an individual who uses portable oxygen; requires personal assistance or the use of crutches, a wheelchair, or a walker to walk two hundred feet [60.96 meters] without rest; is restricted by cardiac, pulmonary, or vascular disease from walking two hundred feet [60.96 meters] without rest; has a forced expiratory volume of less than one liter for one second or an arterial oxygen tension of less than sixty millimeters of mercury on room air while at rest and is classified III or IV by standards for cardiac disease set by the American heart association; has an orthopedic, neurologic, or other medical condition that makes it impossible for the person to walk two hundred feet [60.96 meters] without assistance or rest; or is a disabled veteran issued a plate under subdivision j of subsection 2 of section 39-04-18.
3. Repealed by S.L. 1989, ch. 319, § 6.
4. The director may issue, for a fee of three dollars per year or part of a year, a special identifying certificate to any mobility-impaired applicant upon submission by the applicant of a completed application and a written or electronic statement issued by a qualified physician, physician assistant,

¹¹⁷ Section 39-01-15 was also amended by section 1 of House Bill No. 1135, chapter 335.

chiropractor, or an advanced practice registered nurse to the director that the applicant is a mobility-impaired person within the criteria of subsection 2. The director shall waive the requirement for a written or electronic statement from a qualified physician, physician assistant, chiropractor, or an advanced practice registered nurse if the applicant has previously submitted an application containing a certification from a qualified physician, physician assistant, chiropractor, or an advanced practice registered nurse that the applicant's impairment is not reversible. The application must include the information required by the director. The physician's, physician assistant's, chiropractor's, or advanced practice registered nurse's statement must describe how the impairment limits the applicant's mobility and daily life functions of the applicant. The certificate is valid for a period, not to exceed three years, as determined by the director. A physician, physician assistant, chiropractor, or an advanced practice registered nurse who provides a false statement that an individual is mobility impaired for the purpose of that individual obtaining a certificate under this subsection is guilty of an infraction for which a minimum fine of one hundred dollars must be imposed. A certificate issued under this subsection must be nine and one-half inches [24.13 centimeters] in height and three inches [7.62 centimeters] in width and must bear, in white on blue, the internationally accepted symbol of access for the mobility impaired. The certificate must bear the expiration date and registration number assigned by the director. The director shall adopt rules governing the issuance of the certificate. A temporary certificate, valid for an initial period not to exceed three months, may be issued by the director for a fee of three dollars upon application supported by a physician's, physician assistant's, chiropractor's, or an advanced practice registered nurse's statement. The director may issue a maximum of one additional temporary certificate for a fee of three dollars. The temporary certificate may be extended an additional period, not to exceed three months, upon application supported by a physician's, physician assistant's, chiropractor's, or an advanced practice registered nurse's statement that the extension is warranted. Temporary certificates must be the same size as other certificates issued under this section and must be white on red. The director may issue a maximum of one additional certificate, if the applicant does not have number plates issued under section 39-04-10.2 or under subdivision j of subsection 2 of section 39-04-18, for a fee of six dollars per certificate, to a mobility-impaired individual to whom a certificate has been issued under this subsection. The additional certificates may only be used by or on behalf of the mobility-impaired individual.

5. Except as provided in this subsection, two dollars of each fee for issuance of a certificate and one dollar of each fee for issuance of an additional certificate under this section must be deposited in the state highway department fund for purposes of defraying the cost of issuing the certificate. The rest of the fee, and the five dollar fee received for the issuance of an additional certificate under subsection 4, must be deposited in the state treasury and credited to the employment of people with disabilities fund. The fees deposited in the fund are hereby appropriated on a continuing basis to the department of human services for use by the committee on employment of people with disabilities to accomplish the committee's statutory duties provided under section 50-06.1-16. If a certificate is lost, mutilated, or destroyed, the individual to whom the certificate was issued is entitled to a replacement. The individual shall furnish proof satisfactory to the director that the certificate has been lost, mutilated, or destroyed, and shall pay a replacement fee of three dollars.

6. A certificate issued under this section must be hung from the rearview mirror of the motor vehicle whenever the vehicle is occupying a space reserved for the mobility impaired and is being used by a mobility-impaired individual or another individual for the purposes of transporting the mobility-impaired individual. No part of the certificate may be obscured. A fee of five dollars may be imposed for a violation of this subsection.
7. An applicant may appeal a decision denying issuance of the certificate to the director. Written notice of the appeal must be received within ten business days following receipt by the applicant of notice of denial. The applicant has sixty days to provide additional supportive material to the director for purposes of deciding the appeal. The director shall affirm or reverse the decision to deny issuance of the certificate within thirty days after receipt of the supportive material. Written notice of the decision must be given to the applicant.
8. If a law enforcement officer finds that the certificate is being improperly used, the officer may report to the director any violation and the director may, in the director's discretion, remove the privilege. An individual who is not mobility impaired and who exercises the privileges granted a mobility-impaired individual under subsection 1 is guilty of an infraction for which a fine of one hundred dollars must be imposed.
9. If a public or private entity designates parking spaces for use by a motor vehicle operated by a mobility-impaired individual, those reserved spaces must comply with the requirements of the Americans with Disabilities Accessibility Guidelines for Buildings and Facilities as contained in the appendix to title 28, Code of Federal Regulations, part 36 [28 CFR 36] and must be indicated by blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space. In addition to blue paint, each reserved space must be indicated by an official sign approved by the director bearing the internationally accepted symbol of access for the mobility impaired. The sign must indicate that unauthorized use of the space is a nonmoving violation for which a fee of one hundred dollars must be imposed. For particular events, a public or a private entity may reserve additional parking spaces for use by motor vehicles operated by a mobility-impaired individual. In that case, each temporarily reserved space must be indicated by a sign or other suitable means. A sign indicating that a space is reserved for the mobility impaired and blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space, unless the space is a temporary mobility-impaired parking space, is sufficient basis for the enforcement of this section. A law enforcement officer shall enforce this section in any parking lot or parking facility, whether publicly or privately owned.
10. If the designated mobility-impaired parking spaces are occupied or unavailable, a motor vehicle displaying the distinguishing certificate specified in subsection 4, license plates issued under section 39-04-10.2, or a disabled veteran plate issued under subdivision j of subsection 2 of section 39-04-18 may park at an angle and occupy two standard parking spaces.
- ~~10-11.~~ An individual may not stop, stand, or park any vehicle in any designated parking space that is reserved for the mobility impaired unless the vehicle displays a mobility-impaired identification certificate issued by the director to a mobility-impaired individual. A mobility-impaired individual may not permit the use of a certificate issued under this section by an individual who is not

mobility impaired when that use is not in connection with the transport of the mobility-impaired individual. The registered owner of a vehicle may not allow that vehicle to be used in a manner that violates this subsection. Proof of intent is not required to prove a registered owner's violation of this subsection. The registered owner, however, may be excused from a violation if the owner provides the citing authority with the name and address of the individual operating the vehicle at the time of the violation. A vehicle may temporarily use a space reserved for a mobility-impaired individual without a mobility-impaired certificate for the purpose of loading and unloading a mobility-impaired individual. A violation of this subsection is a nonmoving violation for which a fee of one hundred dollars must be imposed. Notwithstanding section 29-27-02.1, fifty percent of the fee imposed and collected under this subsection is appropriated on a continuing basis to the local committee on persons with disabilities, if one exists in the city in which the violation occurred, for the development of job opportunities for disabled individuals in the community.

~~41-12.~~ Any motor vehicle licensed in another state which displays a special authorized vehicle designation issued by the licensing authority of that state for vehicles used in the transportation of a mobility-impaired individual must be accorded the same privilege provided in this section for similar vehicles licensed in this state if the laws of the other state provide the same privileges to North Dakota motor vehicles displaying the special identifying certificate authorized in this section.

~~42-13.~~ An entity that violates the requirements of subsection 9 is guilty of an infraction if the entity does not comply with subsection 9 within sixty days after receiving official notification of the violation.

~~43-14.~~ The department shall issue a mobility-impaired parking permit for a vehicle owned and operated by care providers licensed by the state, veterans-related organizations, and other entities that regularly transport mobility-impaired individuals for use by those providers and entities to park in designated parking spaces while transporting mobility-impaired individuals.

¹¹⁸ **SECTION 2. AMENDMENT.** Subsection 1 of section 39-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

1. For a nonmoving violation as defined in section 39-06.1-08, a fee of twenty dollars except for a violation of any traffic parking regulation on any state charitable or penal institution property or on the state capitol grounds, a fee in the amount of five dollars, excluding a violation of subsection ~~40~~11 of section 39-01-15.

Disapproved March 22, 2017

Filed March 22, 2017

¹¹⁸ Section 39-06.1-06 was also amended by section 1 of House Bill No. 1311, chapter 266, and section 1 of House Bill No. 1430, chapter 269.

CHAPTER 258

SENATE BILL NO. 2097

(Government and Veterans Affairs Committee)
(At the request of the Highway Patrol)

AN ACT to create and enact a new subsection to section 39-03-09 of the North Dakota Century Code, relating to the powers of the highway patrol to promote public trust; to amend and reenact section 39-03-05, subsection 3 of section 39-12-02, and subsection 2 of section 62.1-02-05 of the North Dakota Century Code, relating to the contents of badges issued to patrolmen, interstate permits, and public security personnel possessing dangerous weapons; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-03-05 of the North Dakota Century Code is amended and reenacted as follows:

39-03-05. Badge issued to patrolmen - Contents of badge.

The superintendent shall issue to each patrolman a badge of authority with the seal of this state in the center thereof. The term "North Dakota highway patrol" must encircle such seal and ~~below~~^{above} the same must appear the designation of the position held by the person to whom such badge is issued. Each such badge must contain a ~~serial~~^{unit} number, ~~or each patrolman shall display otherwise a distinctive serial number or symbol of rank.~~ No badge may be issued to any person who is not a duly appointed and acting member of the highway patrol.

SECTION 2. A new subsection to section 39-03-09 of the North Dakota Century Code is created and enacted as follows:

To promote public trust and an understanding of law enforcement through education, community outreach, and job shadowing programs.

¹¹⁹ **SECTION 3. AMENDMENT.** Subsection 3 of section 39-12-02 of the North Dakota Century Code is amended and reenacted as follows:

3. An appropriate charge must be made for each permit and all funds collected hereunder by the highway patrol must be deposited in the state highway fund for use in the construction and maintenance of highways and operating expenses of the department. Permit fees generated by a political subdivision must be deposited in the local authority's general fund for support of the local road system. Publicly owned vehicles that provide service beyond the agency's jurisdiction, official, publicly owned, emergency, or military vehicles are not subject to charges for permits. The minimum fee for selected charges is as follows:

¹¹⁹ Section 39-12-02 was also amended by section 1 of House Bill No. 1288, chapter 270, section 1 of House Bill No. 1320, chapter 271, and section 9 of Senate Bill No. 2011, chapter 36.

- a. The fee for the ten percent weight exemption, harvest and wintertime, is fifty dollars per month for fees paid on a monthly basis or two hundred fifty dollars per year for fees paid on a yearly basis. Unused fees paid on a monthly basis are refundable. Unused fees paid on a yearly basis are not refundable.
- b. The fee for a ~~non-self-issuing~~an interstate permit is ten dollars per trip or three hundred dollars per calendar year for unlimited trips.
- c. The fee for special mobile equipment is twenty-five dollars per trip.
- d. The fee for engineering is twenty-five dollars per trip.
- e. The fee for faxing a permit is five dollars.
- f. The fee for a single trip permit is twenty dollars per trip.
- g. The fee for a bridge length permit is thirty dollars per trip or one hundred fifty dollars per calendar year.
- h. The fee for a longer combination vehicle permit is one hundred dollars per month for fees paid on a monthly basis.
- i. The fee for an overwidth vehicle or load that is fourteen feet six inches [4.42 meters] or less is twenty dollars per trip or one hundred dollars per calendar year unless the vehicle is a noncommercial fishhouse trailer being moved by the owner, then the fee is twenty dollars per calendar year.
- j. The highway patrol may establish an online electronic permit system. If the highway patrol establishes an online electronic permit system, the highway patrol shall assess an additional fifteen dollar fee for every permit issued under this section to be deposited into the motor carrier electronic permit transaction fund.

¹²⁰ **SECTION 4. AMENDMENT.** Subsection 2 of section 62.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

2. This section does not apply to:
 - a. A law enforcement officer;
 - b. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations, when on duty;
 - c. A competitor participating in an organized sport shooting event;
 - d. A gun or antique show;

¹²⁰ Section 62.1-02-05 was also amended by section 1 of House Bill No. 1279, chapter 430, section 1 of House Bill No. 1233, chapter 433, section 1 of House Bill No. 1273, chapter 429, section 3 of House Bill No. 1395, chapter 428, and section 1 of Senate Bill No. 2125, chapter 431.

- e. A participant using a blank cartridge firearm at a sporting or theatrical event;
- f. A firearm or dangerous weapon carried in a temporary residence or motor vehicle;
- g. A student and an instructor at a hunter safety class;
- h. Private and public security personnel while on duty;
- i. A state or federal park;
- j. An instructor, a test administrator, an official, or a participant in educational, training, cultural, or competitive events involving the authorized use of a dangerous weapon if the event occurs with permission of the person or entity with authority over the function or premises in question;
- k. An individual in a publicly owned or operated rest area or restroom;
- l. An individual possessing a valid concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1 authorizing the individual to carry a dangerous weapon concealed if the individual is in a church building or other place of worship and has the approval to carry in the church building or other place of worship by a primary religious leader of the church or other place of worship or the governing body of the church or other place of worship. If a church or other place of worship authorizes an individual to carry a concealed weapon, local law enforcement must be informed of the name of the authorized individual; and
- m. A municipal court judge, a district court judge, a staff member of the office of attorney general, and a retired North Dakota law enforcement officer, if the individual maintains the same level of firearms proficiency as is required by the peace officer standards and training board for law enforcement officers. A local law enforcement agency shall issue a certificate of compliance under this section to an individual who is proficient.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 14, 2017

Filed March 15, 2017

CHAPTER 259

HOUSE BILL NO. 1359

(Representatives Mitskog, Damschen, Headland, Monson, Owens)
(Senators Armstrong, Dotzenrod, D. Larson, Nelson)

AN ACT to create and enact a new section to chapter 39-03 of the North Dakota Century Code, relating to disabled and vulnerable elderly adults and minors who have developmental disabilities who are reported missing.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-03 of the North Dakota Century Code is created and enacted as follows:

Silver alert notice system.

The superintendent, in cooperation with the bureau of criminal investigation and the division of state radio of the department of emergency services, shall establish a silver alert notice system to activate an urgent bulletin using the emergency alert system to air a description of a disabled adult or vulnerable elderly adult as defined in section 12.1-31-07 or a minor who has a developmental disability as defined in section 25-01.2-01, who has been reported to law enforcement as missing and to aid in the location of that individual.

Approved March 13, 2017

Filed March 13, 2017

CHAPTER 260

HOUSE BILL NO. 1159

(Representatives Beadle, Boehning)
(Senator Casper)

AN ACT to amend and reenact section 39-04-11 of the North Dakota Century Code, relating to clearly displaying letters and numbers on motor vehicle plates and the display of number plates on a motorcycle or trailer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-11 of the North Dakota Century Code is amended and reenacted as follows:

39-04-11. Display of number plates and tabs.

~~Except as~~Unless otherwise specifically provided by law, ~~a person~~an individual may not operate or drive a vehicle on the ~~public highway~~highway of this state unless the vehicle has a distinctive number assigned to ~~it~~the vehicle by the department, and two number plates, bearing the distinctive number conspicuously displayed, horizontally and in an upright position, one on the front and one on the rear of the vehicle, each securely fastened, except number plates assigned to a ~~motorcycle, trailer, or~~house trailer must be attached to the rear ~~thereof~~of the house trailer. Number plates assigned to a motorcycle or trailer must be attached to the rear of the motorcycle or trailer and may be displayed vertically. When only one number plate is furnished for an apportioned vehicle ~~licensed~~registered under the international registration plan as authorized in section 39-19-04, truck tractor, or semitrailer, the plate must be attached to the front of the apportioned vehicle or truck tractor and the rear of the semitrailer. The bottom of each number plate must be at a height of not less than twelve inches [30.48 centimeters] above the level surface upon which the vehicle stands. Each plate must be mounted in a visible manner that ~~does not cover any words, letter, or number~~clearly displays the distinctive number assigned to the vehicle and the name of the state on the plate. As far as is reasonably possible, the plates must at all times be kept free and clear of mud, ice, or snow so as to be clearly visible and all number plates, markers, or evidence of registration or licensing except for the current year must be removed from the vehicle. All vehicle license plates issued by the department ~~continue to be~~are the property of the ~~state of North Dakota~~department for the period for which the plates are valid. An annual registration tab or sticker for the current registration year must be displayed on each number plate, in the area designated by the department for the tab or sticker, in those years for which tabs or stickers are issued in lieu of number plates.

Approved April 4, 2017

Filed April 4, 2017

CHAPTER 261

HOUSE BILL NO. 1219

(Representatives D. Ruby, Kasper, Nathe, Toman)
(Senators Campbell, Klein)

AN ACT to amend and reenact subsection 9 of section 39-05-22, section 47-01-03, and subsections 1, 7, and 8 of section 47-10-27 of the North Dakota Century Code, relating to the process for converting manufactured housing to real property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 9 of section 39-05-22 of the North Dakota Century Code is amended and reenacted as follows:

9. ~~Such file~~Records of surrendered certificates of title and the records referred to in subsections 6, 7, and 8 must be maintained permanently ~~maintained~~. The department shall maintain a website an interested person may use to supply a vehicle identification number in order to confirm the status of a manufactured home as real estate under subsection 6 of section 47-10-27 and to confirm the department retired the manufacturer's certificate of origin or certificate of title.

SECTION 2. AMENDMENT. Section 47-01-03 of the North Dakota Century Code is amended and reenacted as follows:

47-01-03. Real property defined.

Real or immovable property ~~shall consist~~consists of:

1. Land;
2. That which is affixed to land, including manufactured homes as defined in section 41-09-02 with respect to which the requirements of ~~subsections 4 through 3~~subsection 6 of section ~~39-05-35, as applicable, 47-10-27~~ have been satisfied;
3. That which is incidental or appurtenant to land; and
4. That which is immovable by law.

¹²¹ **SECTION 3. AMENDMENT.** Subsection 1 of section 47-10-27 of the North Dakota Century Code is amended and reenacted as follows:

1. For purposes of this section, "manufactured home" means a manufactured home as defined in section 41-09-02. Notwithstanding this definition, for purposes of 11 U.S.C. 1322(b)(2), a manufactured home is deemed real property. For purposes of this section, a manufactured home is permanently affixed if the manufactured home is ~~anchored~~affixed to real property ~~by~~

¹²¹ Section 47-10-27 was also amended by section 2 of House Bill No. 1250, chapter 89.

~~attachment to a permanent foundation; constructed in accordance with applicable state and local building codes and manufacturer's specifications as provided in title 24, Code of Federal Regulations, part 3285; and connected to residential utilities, such as water, gas, electricity, or sewer or septic service.~~

SECTION 4. AMENDMENT. Subsection 7 of section 47-10-27 of the North Dakota Century Code is amended and reenacted as follows:

7. Upon the satisfaction of the requirements of subsection 6, the manufactured home is deemed to be real property; any mortgage, deed of trust, lien, or security interest ~~which~~that can attach to land, buildings erected ~~thereon~~on the land, or fixtures affixed ~~thereto~~to the land attach as of the date of its recording in the same manner as if the manufactured home were built from ordinary building materials onsite. Title to the manufactured home must be transferred by deed or other form of conveyance that is effective to transfer an interest in real property, together with the land to which the structure has been affixed. The manufactured home is deemed to be real property and is governed by the laws applicable to real property and the department of transportation has no further authority or jurisdiction over the conveyance or encumbrance of the manufactured home.

SECTION 5. AMENDMENT. Subsection 8 of section 47-10-27 of the North Dakota Century Code is amended and reenacted as follows:

8. Except as provided in subsections 2, 3, 5, 6, and 7, an affidavit of affixation is not necessary or effective to convey or encumber a manufactured home or to change the character of the manufactured home to real property. ~~A conveyance of land upon which is located a manufactured home for which an affidavit of affixation has been recorded does not effect a conveyance or encumbrance of any interest in the manufactured home. A conveyance or encumbrance may only be made under the provisions of chapter 39-05. An agreement by a party to the transaction whereby~~by which the requirements of this subsection are waived is void as contrary to public policy.

Approved March 22, 2017

Filed March 23, 2017

CHAPTER 262

SENATE BILL NO. 2122

(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to amend and reenact section 39-06-02 of the North Dakota Century Code, relating to preventing nonresident, nonlicensed individuals from driving on the highway.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06-02 of the North Dakota Century Code is amended and reenacted as follows:

39-06-02. Individuals who are exempt from having an operator's license - Resident defined.

1. The following individuals are exempt from having an operator's license:
 - a. An employee of the United States government while operating a motor vehicle owned by or leased to that government and being operated on official business.
 - b. A nonresident who is at least sixteen years of age, who has in that individual's immediate possession a valid operator's license issued to that individual in that individual's home state or country.
 - c. ~~A nonresident who is at least sixteen years of age, whose home state or country does not require the licensing of operators, for a period of not more than thirty days in any calendar year without making an application for or obtaining an operator's license of this state, if that individual has in that individual's possession while driving in this state an official certificate showing the lawful registry of the motor vehicle and be able to prove that individual's lawful possession or the right to operate the vehicle and to establish that individual's identity.~~
 - d. A member of the armed forces of the United States while that individual is stationed in North Dakota, if that individual has a valid current operator's license from another state.
 - e.d. An individual over sixteen years of age who becomes a resident of this state and who has in possession a valid operator's license issued to that individual under the laws of some other state or country or by military authorities of the United States for a period of not more than sixty days after becoming a resident of this state.
 - f.e. A member of the North Dakota national guard operating any military vehicles as authorized by a national guard operator's license while on duty.

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2. For purposes of this chapter, an individual is deemed a resident of this state when the individual has lived in the state for ninety consecutive days, unless the individual is a nonresident student, a tourist, or a member of the armed forces.

Approved March 9, 2017

Filed March 9, 2017

CHAPTER 263

SENATE BILL NO. 2126

(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to amend and reenact sections 39-06-08 and 39-06-09 of the North Dakota Century Code, relating to a minor's application for an operator's license and liability for the negligence of a minor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06-08 of the North Dakota Century Code is amended and reenacted as follows:

39-06-08. Application of minors.

The application of any minor for an operator's license must be signed and verified before an individual authorized to administer oaths or the director, by the father, mother, or legal guardian, or if there is not a parent or legal guardian, then by another responsible adult who is willing to assume the obligation imposed under this chapter upon an individual signing the application of a minor. If the father, mother, or legal guardian is unable to appear, a father, mother, or legal guardian may designate, through a notarized document, an individual temporarily authorized to sign the application.

SECTION 2. AMENDMENT. Section 39-06-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06-09. Liability for negligence of minor - General.

Any negligence of a minor when driving a motor vehicle upon a highway must be imputed to the individual who has signed the application of the minor for an operator's license, or upon the father, mother, or legal guardian if signing authority has been temporarily transferred under section 39-06-08. This individual is jointly and severally liable with the minor for any damages caused by the negligence, except as provided in section 39-06-10.

Approved March 9, 2017

Filed March 9, 2017

CHAPTER 264

HOUSE BILL NO. 1299

(Representatives Jones, Johnston, Kasper, Marschall, Owens, Paur, D. Ruby,
Satrom, Weisz)
(Senators Armstrong, Kannianen)

AN ACT to amend and reenact section 39-06-19 of the North Dakota Century Code, relating to operator's license renewal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²² **SECTION 1. AMENDMENT.** Section 39-06-19 of the North Dakota Century Code is amended and reenacted as follows:

39-06-19. Expiration of license - Renewal.

1. Every operator's license issued under this chapter or chapter 39-06.2 expires and is renewed according to this section.
2. The expiration date of a noncommercial operator's license for an individual whose birth occurred in a year ending in an odd numeral is twelve midnight on the anniversary of the birthday in the third subsequent year ending in an odd numeral, except for an individual who, at the time of renewal, is seventy-eight years of age or older is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an odd numeral. The expiration date of a noncommercial operator's license for an individual whose birth occurred in a year ending in an even numeral is twelve midnight on the anniversary of the birthday in the third subsequent year ending in an even numeral, except for an individual who, at the time of renewal, is seventy-eight years of age or older is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an even numeral.
3. The expiration date of a commercial operator's license for an individual whose birth occurred in a year ending in an odd numeral is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an odd numeral. The expiration date of a commercial operator's license for an individual whose birth occurred in a year ending in an even numeral is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an even numeral.
4. An individual who has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, a pending application for asylum in the United States, a pending or approved application for temporary protected status in the United States, approved deferred action status, or a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence or conditional permanent residence status in the United States will be issued a temporary operator's license or nondriver photo identification card. The temporary operator's license or identification card is

¹²² Section 39-06-19 was also amended by section 7 of House Bill No. 1128, chapter 256.

valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year. The license or card may be renewed only upon presentation of valid documentary evidence that the status has been extended.

5. An applicant for renewal must present the application with the fee for renewal of license to the director not before ten months before the expiration date of the operator's license. The director may require an examination of an applicant as upon an original application. The director may require an applicant for renewal or a substitute to provide a social security card and proof of residence address. The director may not issue a distinguishing number that is, contains, can be converted to, or is an encrypted version of the applicant's social security number.
6. The director may not renew an operator's license if the license has been suspended under section 14-08.1-07. Upon the recommendation of the court, the director may issue a temporary permit to the licensee under section 39-06.1-11 if the temporary permit is necessary for the licensee to work and the court has determined the licensee is making a good-faith effort to comply with the child support order.
7. An applicant for renewal of an operator's license must provide a certificate of examination from the driver licensing or examining authorities or a statement as to the corrected and uncorrected vision of the applicant from a licensed physician or an optometrist, except as required under subsection 9. The director shall provide visual examination equipment at each location where a license may be renewed.
8. An individual submitting an application and the fee for renewal of license one year or more after the expiration of a license, except an applicant whose military service has terminated less than thirty days prior to the application, must be treated as an initial applicant.
9. A noncommercial applicant may apply by mail or electronically for renewal of a license during every other renewal cycle. The director may use vision information provided by the applicant to meet vision requirements for applicants under sixty-five years of age and adopt procedures necessary to implement this subsection.

Approved April 13, 2017

Filed April 13, 2017

CHAPTER 265

SENATE BILL NO. 2108

(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to amend and reenact section 39-06-37, subsection 2 of section 39-06.1-10, and section 39-06.1-14 of the North Dakota Century Code, relating to a revoked or suspended operator's license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06-37 of the North Dakota Century Code is amended and reenacted as follows:

39-06-37. ~~Surrender and return of license~~– Duration of multiple suspensions and revocations for separate violations.

1. ~~The director upon canceling or revoking an operator's license shall require that the license must be surrendered to and be retained by the director.~~
2. A suspension, revocation, or cancellation ordered under this title must be deemed to have commenced when the order is delivered to the licensee at the address of record in the department under section 39-06-20. Constructive delivery under this section must be considered as occurring forty-eight hours after the order is mailed to the person by regular mail.
- ~~3.~~2. Unless otherwise specifically provided in this title, any suspension, revocation, cancellation, or denial of licensing ordered under this title must be in addition to, and run consecutive to, any other or existing suspension, revocation, cancellation, or denial of licensing ordered for a separate violation.

SECTION 2. AMENDMENT. Subsection 2 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

2. If the director confirms, after hearing or opportunity for hearing, that the licensee's driving record has an accumulated point total of twelve or more points, the director shall suspend the licensee's operator's license according to the following schedule:

Accumulated Point Total:	Period of Suspension:
a. Twelve	7 days
b. Thirteen and above	7 days for each point over eleven

~~Surrender and return of a license suspended under this section is governed by section 39-06-37.~~

SECTION 3. AMENDMENT. Section 39-06.1-14 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-14. ~~Failure to surrender~~Delivery of license revocation.

~~The director shall extend the period of revocation in all cases that involve a time period, within this title, if the individual whose operator's license has been revoked fails to surrender the operator's license within forty-eight hours after delivery of the order of revocation. The period of revocation must be extended by one day for each day the individual fails to surrender the operator's license. Delivery of the order of~~revocation ~~is deemed to have occurred seventy-two hours after the order is mailed by regular mail to the address of record in the department under section 39-06-20.~~

Approved March 9, 2017

Filed March 9, 2017

CHAPTER 266

HOUSE BILL NO. 1311

(Representatives Zubke, Guggisberg, Hatlestad, Keiser, Longmuir, Maragos)
(Senators Bekkedahl, Kreun)

AN ACT to amend and reenact subsection 2 of section 39-06.1-06 of the North Dakota Century Code, relating to the amount of statutory fees for littering on the highway; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²³ **SECTION 1. AMENDMENT.** Subsection 2 of section 39-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for:
 - a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, or 39-10-42, a fee of fifty dollars.
 - b. A violation of section 39-10-05 involving failure to yield to a pedestrian or subsection 1 of section 39-10-28, a fee of fifty dollars.
 - c. A violation of section 39-21-41.2, a fee of twenty-five dollars.
 - d. A violation of subsection 1 of section 39-12-02 or section 39-08-23, a fee of one hundred dollars.
 - e. A violation of subdivision d of subsection 1 of section 39-12-04, a fee of one hundred dollars.
 - f. A violation of subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, a fee of one hundred dollars.
 - g. A violation of subsection 2 of section 39-10-21.1, a fee of two hundred fifty dollars.
 - h. A violation of section 39-10-59, a fee of ~~one~~five hundred dollars.
 - i. A violation of section 39-09-01, a fee of thirty dollars.
 - j. A violation of section 39-09-01.1, a fee of thirty dollars.
 - k. A violation of section 39-10-46 or 39-10-46.1, a fee of one hundred dollars.
 - l. A violation of subsection 1 of section 39-08-20, one hundred fifty dollars for a first violation and three hundred dollars for a second or subsequent violation in three years.

Approved March 24, 2017

Filed March 24, 2017

¹²³ Section 39-06.1-06 was also amended by section 2 of House Bill No. 1211, chapter 257, and section 1 of House Bill No. 1430, chapter 269.

CHAPTER 267

HOUSE BILL NO. 1133

(Transportation Committee)

(At the request of the Department of Transportation)

AN ACT to create and enact a new subsection to section 39-06.2-06 of the North Dakota Century Code, relating to the exemption of a class A commercial driver's licenseholder from the hazardous materials endorsement; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-06.2-06 of the North Dakota Century Code is created and enacted as follows:

Pursuant to the limitations imposed by 49 Code of Federal Regulations part 383.3, the holder of a class A commercial driver's license is exempt from the hazardous materials endorsement, if the licenseholder is:

- a. Acting within the scope of the licenseholder's employment, and within the state of domicile, or another state with a hazardous materials enforcement exemption, as an employee of a custom harvester operation, agrichemical business, farm retail outlet and supplier, or livestock feeder; and
- b. Operating a service vehicle that is transporting diesel in a quantity of one thousand gallons [3785 liters] or less which is clearly marked with "flammable" or "combustible" placard, as appropriate.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 9, 2017

Filed March 9, 2017

CHAPTER 268

SENATE BILL NO. 2176

(Senator Armstrong)

AN ACT to amend and reenact subdivision e of subsection 1 of section 39-08-01, subsection 7 of section 39-08-01, subsection 3 of section 39-08-01.2, subdivision a of subsection 3 of section 39-20-01, sections 39-20-03.1 and 39-20-03.2, subsection 2 of section 39-20-05, and subsection 3 of section 39-20-14 of the North Dakota Century Code, relating to driving under the influence; to repeal section 39-20-03 of the North Dakota Century Code, relating to driving under the influence; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁴ **SECTION 1. AMENDMENT.** Subdivision e of subsection 1 of section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

- e. That individual refuses to submit to any of the following:
 - (1) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under section 39-06.2-10.2 if the individual is driving or is in actual physical control of a commercial motor vehicle; or
 - (2) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under section 39-20-01; or
 - (3) ~~An onsite screening test, or tests, of the individual's breath for the purpose of estimating the alcohol concentration in the individual's breath upon the request of a law enforcement officer under section 39-20-14.~~

¹²⁵ **SECTION 2. AMENDMENT.** Subsection 7 of section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

7. As used in this title, participation in the twenty-four seven sobriety program under chapter 54-12 means compliance with sections 54-12-27 through 54-12-31, and requires sobriety breath testing twice per day seven days per week or electronic alcohol monitoring, urine testing, or drug patch testing. The offender is responsible for all twenty-four seven sobriety program fees and the court may not waive the fees. For purposes of this section, the twenty-four

¹²⁴ Section 39-08-01 was also amended by section 14 of House Bill No. 1041, chapter 108, and section 2 of Senate Bill No. 2176, chapter 268.

¹²⁵ Section 39-08-01 was also amended by section 14 of House Bill No. 1041, chapter 108, and section 1 of Senate Bill No. 2176, chapter 268.

seven sobriety program is a condition of probation and a court may not order participation in the program as part of the sentence. If an individual ordered to participate in the twenty-four seven program is not a resident of this state, that individual shall enroll in a twenty-four seven program or an alcohol compliance program if available in that individual's state of residence and shall file proof of such enrollment.

SECTION 3. AMENDMENT. Subsection 3 of section 39-08-01.2 of the North Dakota Century Code is amended and reenacted as follows:

3. The sentence under this section may not be suspended unless the court finds that manifest injustice would result from the imposition of the sentence. Before a sentence under this section applies, a defendant must be notified of the minimum mandatory sentence. The elements of an offense under this section are the elements of an offense for a violation of section 39-08-01 and the additional elements that create an offense in each subsection of this section. Whether an individual caused death or substantial or serious bodily injury must be determined in accordance with section 12.1-02-05.

¹²⁶ **SECTION 4. AMENDMENT.** Subdivision a of subsection 3 of section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

- a. The law enforcement officer shall inform the individual charged that North Dakota law requires the individual to take ~~thea~~ chemical test to determine whether the individual is under the influence of alcohol or drugs; ~~that refusal to take the and that refusal of the individual to submit to a test directed by the law enforcement officer is a crime punishable in the same manner as driving under the influence; and that refusal of the individual to submit to the test directed by the law enforcement officer may result in a revocation for a minimum of one hundred eighty days and up to three years of the individual's driving privileges may result in a revocation of the individual's driving privileges for a minimum of one hundred eighty days and up to three years. In addition, the law enforcement officer shall inform the individual refusal to take a breath or urine test is a crime punishable in the same manner as driving under the influence. If the officer requests the individual to submit to a blood test, the officer may not inform the individual of any criminal penalties until the officer has first secured a search warrant.~~

SECTION 5. AMENDMENT. Section 39-20-03.1 of the North Dakota Century Code is amended and reenacted as follows:

39-20-03.1. Action following test result for a resident operator.

If a person submits to a test under section 39-20-01; ~~or 39-20-02; or 39-20-03~~ and the test shows that person to have an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle, the following procedures apply:

¹²⁶ Section 39-20-01 was also amended by section 15 of House Bill No. 1041, chapter 108.

1. The law enforcement officer shall immediately issue to that person a temporary operator's permit if the person then has valid operating privileges, extending driving privileges for the next twenty-five days, or until earlier terminated by the decision of a hearing officer under section 39-20-05. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the director's official notification to the person of the director's intent to revoke, suspend, or deny driving privileges in this state.
2. If a test administered under section 39-20-01 ~~or 39-20-03~~ was by urine sample or by drawing blood as provided in section 39-20-02 and the individual tested is not a resident of an area in which the law enforcement officer has jurisdiction, the law enforcement officer shall, on receiving the analysis of the urine or blood from the director of the state crime laboratory or the director's designee and if the analysis shows that individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, either proceed in accordance with subsection 1 during that individual's reappearance within the officer's jurisdiction, proceed in accordance with subsection 3, or notify a law enforcement agency having jurisdiction where the individual lives. On that notification, that law enforcement agency shall, within twenty-four hours, forward a copy of the temporary operator's permit to the law enforcement agency making the arrest or to the director. The law enforcement agency shall issue to that individual a temporary operator's permit as provided in this section, and shall sign and date the permit as provided in subsection 1.
3. If the test results indicate an alcohol concentration at or above the legal limit, the law enforcement agency making the arrest may mail a temporary operator's permit to the individual who submitted to the blood or urine test, whether or not the individual is a resident of the area in which the law enforcement officer has jurisdiction. The third day after the mailing of the temporary operator's permit is considered the date of issuance. Actual notice of the opportunity for a hearing under this section is deemed to have occurred seventy-two hours after the notice is mailed by regular mail to the address submitted by the individual to the law enforcement officer. The temporary operator's permit serves as the director's official notification to the individual of the director's intent to revoke, suspend, or deny driving privileges in this state.
4. The law enforcement officer, within five days of the issuance of the temporary operator's permit, shall forward to the director a certified written report in the form required by the director. If the individual was issued a temporary operator's permit because of the results of a test, the report must show that the officer had reasonable grounds to believe the individual had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01, or equivalent ordinance, that the individual was lawfully arrested, that the individual was tested for alcohol concentration under this chapter, and that the results of the test show that the individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight. In addition to the operator's license and report, the law enforcement officer shall forward to the director a certified copy of the operational checklist and test records of a breath test and a copy of the certified copy of the analytical report for a blood or urine test for all tests administered at the direction of the officer.

5. An individual charged with a violation of section 39-08-01 or equivalent ordinance may elect to participate in the twenty-four seven sobriety program under chapter 54-12 in lieu of the administrative hearing under this chapter if the individual's driver's license is not subject to an unrelated suspension or revocation. Notwithstanding any other provision of law, an individual may not receive a temporary restricted operator's license until after fourteen days after the administrative hearing on the offense under this chapter has been waived or held, or after fourteen days of the final appeal, whichever is longer. The director shall issue a temporary restricted driver's license with the restriction the individual participate in the twenty-four seven sobriety program upon application by the individual with submission of proof of financial responsibility and proof of participation in the twenty-four seven sobriety program under chapter 54-12.

SECTION 6. AMENDMENT. Section 39-20-03.2 of the North Dakota Century Code is amended and reenacted as follows:

39-20-03.2. Action following test result or on refusing test by nonresident operator.

If a person licensed in another state refuses in this state to submit to a test provided under section 39-20-01 or 39-20-14, or who submits to a test under section 39-20-01, or 39-20-02, or ~~39-20-03~~ and the test results show the person to have an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight at the time of performance of a test within two hours after driving or being in physical control of a motor vehicle, the following procedures apply:

1. Without taking possession of the person's out-of-state operator's license, the law enforcement officer shall issue to the person a notification of the test results and a temporary operator's permit extending nonresident operating privileges in this state for twenty-five days from the date of issuance or until earlier terminated by the decision of a hearing officer under section 39-20-05. The temporary permit must be signed and dated by the officer and serves as the director's official notification to the person of the director's intent to revoke, suspend, or deny driving privileges in this state, and of the hearing procedures under this chapter.
2. If the test was administered by urine sample or by drawing blood, the law enforcement officer, on reviewing the alcohol concentration analysis showing the individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, shall mail or issue to the individual a notification of the test results, a temporary operator's permit extending nonresident operating privileges in this state for twenty-five days from the date of mailing or issuance or until earlier terminated by the decision of a hearing officer under section 39-20-05, and notice of the intent to revoke, suspend, or deny driving privileges in this state, together with the notice provided under section 39-06.1-07 of the procedures available under this chapter. The temporary operator's permit must be signed and dated by the officer. The third day after the mailing of the temporary operator's permit is considered the date of issuance.
3. The law enforcement officer, within five days of issuing the temporary operator's permit, shall forward to the director a certified written report in the

form required by the director and a certified copy of the operational checklist and test records of a breath test and a copy of the certified copy of the analytical report for a blood or urine test for all tests administered at the direction of the officer. If the individual was issued a temporary operator's permit because of the individual's refusal to submit to a test under sections 39-20-01 and 39-20-14, the report must include information as provided in section 39-20-04. If the individual was issued a temporary operator's permit because of the results of a test, the report must show that the officer had reasonable grounds to believe the individual had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01, or equivalent ordinance, that the individual was lawfully arrested, that the individual was tested for alcohol concentration under this chapter, and that the results of the test show that the individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight.

SECTION 7. AMENDMENT. Subsection 2 of section 39-20-05 of the North Dakota Century Code is amended and reenacted as follows:

2. If the issue to be determined by the hearing concerns license suspension for operating a motor vehicle while having an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, the hearing must be before a hearing officer assigned by the director and at a time and place designated by the director. The hearing must be recorded and its scope may cover only the issues of whether the arresting officer had reasonable grounds to believe the individual had been driving or was in actual physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance or, with respect to an individual under twenty-one years of age, the individual had been driving or was in actual physical control of a vehicle while having an alcohol concentration of at least two one-hundredths of one percent by weight; whether the individual was placed under arrest, unless the individual was under twenty-one years of age and the alcohol concentration was less than eight one-hundredths of one percent by weight, then arrest is not required and is not an issue under any provision of this chapter; whether the individual was tested in accordance with section 39-20-01 ~~or 39-20-03~~ and, if applicable, section 39-20-02; and whether the test results show the individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight. For purposes of this section, a copy of a certified copy of an analytical report of a blood or urine sample from the director of the state crime laboratory or the director's designee, or electronically posted by the director of the state crime laboratory or the director's designee on the crime laboratory information management system and certified by a law enforcement officer or individual who has authorized access to the crime laboratory management system through the criminal justice data information sharing system or a certified copy of the checklist and test records from a certified breath test operator, and a copy of a certified copy of a certificate of the director of the state crime laboratory designating the director's designees, establish prima facie the alcohol concentration or the presence of drugs, or a combination thereof, shown therein.

SECTION 8. AMENDMENT. Subsection 3 of section 39-20-14 of the North Dakota Century Code is amended and reenacted as follows:

3. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the director of the state crime laboratory or the director's designee and according to methods and with devices approved by the director of the state crime laboratory or the director's designee. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the individual that North Dakota law requires the individual to take the screening test to determine whether the individual is under the influence of alcohol, ~~that refusal to take the screening test is a crime~~, and that refusal of the individual to submit to a screening test may result in a revocation for at least one hundred eighty days and up to three years of that individual's driving privileges. If such individual refuses to submit to such screening test or tests, none may be given, but such refusal is admissible in a court proceeding if the individual was arrested in violation of 39-08-01 and did not take any additional chemical tests requested by the law enforcement officer. Such refusal is sufficient cause to revoke such individual's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available.

SECTION 9. REPEAL. Section 39-20-03 of the North Dakota Century Code is repealed.

Approved March 29, 2017

Filed March 30, 2017

CHAPTER 269

HOUSE BILL NO. 1430

(Representatives Mock, Dobervich, D. Ruby, Sukut)
(Senators Laffen, D. Larson)

AN ACT to create and enact a new section to chapter 39-08 of the North Dakota Century Code, relating to failure to maintain control of a motor vehicle; to amend and reenact subsection 2 of section 39-06.1-06 and sections 39-06.1-09 and 39-08-23 of the North Dakota Century Code, relating to fees for a moving violation and the use of a wireless communication device while driving; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁷ **SECTION 1. AMENDMENT.** Subsection 2 of section 39-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for:
 - a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, or 39-10-42, a fee of fifty dollars.
 - b. A violation of section 39-10-05 involving failure to yield to a pedestrian or subsection 1 of section 39-10-28, a fee of fifty dollars.
 - c. A violation of section 39-21-41.2, a fee of twenty-five dollars.
 - d. A violation of subsection 1 of section 39-12-02 ~~or~~, section 39-08-23, or section 4 of this Act, a fee of one hundred dollars.
 - e. A violation of subdivision d of subsection 1 of section 39-12-04, a fee of one hundred dollars.
 - f. A violation of subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, a fee of one hundred dollars.
 - g. A violation of subsection 2 of section 39-10-21.1, a fee of two hundred fifty dollars.
 - h. A violation of section 39-10-59, a fee of one hundred dollars.
 - i. A violation of section 39-09-01, a fee of thirty dollars.
 - j. A violation of section 39-09-01.1, a fee of thirty dollars.
 - k. A violation of section 39-10-46 or 39-10-46.1, a fee of one hundred dollars.

¹²⁷ Section 39-06.1-06 was also amended by section 2 of House Bill No. 1211, chapter 257, and section 1 of House Bill No. 1311, chapter 266.

- I. A violation of subsection 1 of section 39-08-20, one hundred fifty dollars for a first violation and three hundred dollars for a second or subsequent violation in three years.

SECTION 2. AMENDMENT. Section 39-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-09. Moving violation defined.

For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01, 39-06-14, 39-06-14.1, 39-06-16, 39-08-20, 39-08-23, 39-08-24, section 4 of this Act 39-09-01, 39-09-01.1, 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02, section 39-12-04, 39-12-05, 39-12-06, 39-12-09, 39-21-45.1, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5 of section 39-24-09, or equivalent ordinances; or a violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except subsection 5 of section 39-10-26, section 39-21-44, and subsections 2 and 3 of section 39-21-46, and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

SECTION 3. AMENDMENT. Section 39-08-23 of the North Dakota Century Code is amended and reenacted as follows:

39-08-23. Use of a wireless communications device prohibited.

1. The operator of a motor vehicle that is part of traffic may not use a wireless communications device to compose, read, or send an electronic message.
2. Under this section:
 - a. "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. The term includes electronic mail, a text message, an instant message, a command or request to access a worldwide web page, or other data that uses a commonly recognized electronic communications protocol. The term does not include:
 - (1) Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;
 - (2) Inputting, selecting, or reading information on a global positioning system device or other navigation system device;
 - (3) Using a device capable of performing multiple functions, such as fleet management systems, dispatching devices, smartphones, phones, citizen band radios, music players, or similar devices, for a purpose that is not otherwise prohibited;
 - (4) Voice or other data transmitted as a result of making a telephone or cellular phone call; or

(5) Data transmitted automatically by a wireless communication device without direct initiation by an individual; or

(6) A wireless communications device used in a voice-activated, voice-operated, or any other hands-free manner.

- b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of travel on any street or highway and includes a temporary stop or halt of motion, such as at an official traffic-control signal or sign. The term does not include a motor vehicle that is lawfully parked.
3. This section does not apply if a wireless communications device is used for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed, in the reasonable belief that an individual's life or safety is in immediate danger, or in an authorized emergency vehicle while in the performance of official duties.

SECTION 4. A new section to chapter 39-08 of the North Dakota Century Code is created and enacted as follows:

Failure to maintain control.

1. An operator of a motor vehicle may not fail to maintain control of that motor vehicle. An individual is in violation of this section if that individual:
- a. Commits an offense under this title and, at the time of the offense, the individual was engaged in the operation of a motor vehicle while distracted; or
- b. Is determined to have been the operator of a motor vehicle that was involved in a reportable accident as defined in section 39-08-09 which resulted in property damage and, at the time the reportable accident occurred, the individual was engaged in the operation of a motor vehicle while distracted.
2. An individual may be issued a citation or summons for any other traffic offense that was committed by the individual in relation to the individual's commission of the traffic offense of failure to maintain control of a motor vehicle.
3. As used in this section, "operation of a motor vehicle while distracted" means the operation of a motor vehicle by an individual who, while operating the vehicle, is engaged in an activity that:
- a. Is not necessary to the operation of the vehicle; and
- b. Actually impairs, or would reasonably be expected to impair, the ability of the individual to safely operate the vehicle.

Approved March 24, 2017

Filed March 24, 2017

CHAPTER 270

HOUSE BILL NO. 1288

(Representatives D. Ruby, Delmore, Owens, Sanford)
(Senators Campbell, Casper, Laffen)

AN ACT to amend and reenact section 39-12-02 of the North Dakota Century Code, relating to an annual permit for oversized vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁸ **SECTION 1. AMENDMENT.** Section 39-12-02 of the North Dakota Century Code is amended and reenacted as follows:

39-12-02. Special permits for vehicles of excessive size and weight issued - Contents - Fees.

1. The highway patrol and local authorities in their respective jurisdictions, upon application and payment of the appropriate charges and for good cause shown, may issue a special written permit authorizing the applicant to operate or move a vehicle, mobile home, or modular unit of a size or weight exceeding the maximum specified by this chapter, upon a highway under the jurisdiction of the body granting the permit. Every permit may designate the route to be traversed and may contain any other restrictions or conditions deemed necessary by the body granting the permit. ~~Every~~The permit must be carried in the vehicle to which it refers in printed or electronic format and must be opened to inspection by ~~any~~a peace officer or agent of the superintendent of the highway patrol unless prior approval is obtained from the highway patrol. It is a violation of this chapter for ~~any~~a person to violate any of the terms or conditions of the permit. The highway patrol and local authorities may adopt rules governing the movement of oversize and overweight vehicles.
2. Upon ~~any~~an application for a permit to move a new manufactured building or modular unit from outside this state to be located anywhere within this state, the manufacturer is deemed to have certified that the new manufactured building or modular unit meets all applicable building codes and all applicable electrical wiring and equipment, plumbing, and fire standards. The state is not liable to ~~any~~a person for issuing a permit in violation of this subsection.
3. An appropriate charge must be made for ~~each~~a permit and all funds collected hereunder by the highway patrol must be deposited in the state highway fund for use in the construction and maintenance of highways and operating expenses of the department. Permit fees generated by a political subdivision must be deposited in the local authority's general fund for support of the local road system. Publicly owned vehicles that provide service beyond the agency's jurisdiction, official, publicly owned, emergency, or military vehicles are not subject to charges for permits. The minimum fee for selected charges is as follows:

¹²⁸ Section 39-12-02 was also amended by section 1 of House Bill No. 1320, chapter 271, section 9 of Senate Bill No. 2011, chapter 36, and section 3 of Senate Bill No. 2097, chapter 258.

- a. The fee for the ten percent weight exemption, harvest and wintertime, is fifty dollars per month for fees paid on a monthly basis or two hundred fifty dollars per year for fees paid on a yearly basis. Unused fees paid on a monthly basis are refundable. Unused fees paid on a yearly basis are not refundable.
 - b. The fee for a non-self-issuing interstate permit is ten dollars per trip or three hundred dollars per calendar year for unlimited trips.
 - c. The fee for special mobile equipment is twenty-five dollars per trip.
 - d. The fee for engineering is twenty-five dollars per trip.
 - e. The fee for faxing a permit is five dollars.
 - f. The fee for a single trip permit is twenty dollars per trip.
 - g. The fee for a bridge length permit is thirty dollars per trip or one hundred fifty dollars per calendar year.
 - h. The fee for a longer combination vehicle permit is one hundred dollars per month for fees paid on a monthly basis.
 - i. The fee for an overwidth vehicle or load that is fourteen feet six inches [4.42 meters] or less is twenty dollars per trip or one hundred fifty dollars per calendar year unless the vehicle is a noncommercial fishhouse trailer being moved by the owner, then the fee is twenty dollars per calendar year.
 - j. The fee for an overlength vehicle or load that is one hundred twenty feet [36.576 meters] or less is twenty dollars per trip or one hundred fifty dollars per calendar year.
 - j-k. The highway patrol may establish an online electronic permit system. If the highway patrol establishes an online electronic permit system, the highway patrol shall assess an additional fifteen dollar fee for every permit issued under this section to be deposited into the motor carrier electronic permit transaction fund.
4. The director of tax equalization of the county of destination must be furnished a copy of the permit for the movement of an overdimensional mobile home.
 5. Permits issued for overdimensional movements of vehicles that do not exceed~~exceeding~~ ten feet [3.05 meters] in total width, including load, are valid for travel during the day and night. Permits issued for overdimensional movements of vehicles not exceeding one hundred and twenty feet [36.576 meters] in total length, including load, are valid for travel during the day and night with proper lighting.
 6. There is created in the state treasury a fund known as the motor carrier electronic permit transaction fund. All money in the fund is appropriated on a continuing basis to the highway patrol to defray the costs of establishing and maintaining an online electronic permit system for permitting and routing oversize and overweight vehicles in this state. The highway patrol may contract with a private entity to establish, operate, and maintain an online

electronic permit system. The online electronic permit system includes the issuance of permits under this section and an automated routing system. The automated routing system must include integration of department of transportation traveler information system information, all other data required for the automated routing system, and integration of the highway patrol computer-aided dispatch system.

Approved April 4, 2017

Filed April 4, 2017

CHAPTER 271

HOUSE BILL NO. 1320

(Representatives D. Ruby, B. Anderson, Jones, Steiner)
(Senators Bekkedahl, Laffen, Rust)

AN ACT to amend and reenact sections 39-12-02 and 39-12-03 of the North Dakota Century Code, relating to a uniform truck permitting system for oversized or overweight vehicles and local authority to limit use of vehicles on highways; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁹ **SECTION 1. AMENDMENT.** Section 39-12-02 of the North Dakota Century Code is amended and reenacted as follows:

39-12-02. Special permits for vehicles of excessive size and weight issued - Contents - Fees.

1. a. The highway patrol and local authorities in their respective jurisdictions, upon application and payment of the appropriate charges and for good cause shown, may issue a special written permit authorizing the applicant to operate or move a vehicle, mobile home, or modular unit of a size or weight exceeding the maximum specified by this chapter, upon a highway under the jurisdiction of the body granting the permit. ~~Every~~A permit may designate the route to be traversed and may contain ~~any~~ other restrictions or conditions deemed necessary by the body granting the permit. Every permit must be carried in the vehicle to which it refers in printed or electronic format and must be opened to inspection by ~~any~~a peace officer or agent of the superintendent of the highway patrol unless prior approval is obtained from the highway patrol. It is a violation of this chapter for ~~any~~a person to violate ~~any~~ of the terms or conditions of the permit. The highway patrol and local authorities may adopt rules governing the movement of oversize and overweight vehicles.
- b. Each township in a county that participates in a uniform truck permitting system for authorization of oversized or overweight vehicle movements shall participate in the same system.
- c. When fee changes are proposed, a uniform permit system shall provide public notice of the date, hour, and place at which the public may comment on the proposed fee changes.
- d. Notwithstanding any other provision of this chapter, a city, county, or township having control of roads may not impose additional fees for the use of roads beyond the fees established under a uniform permit program. A city, county, or township may issue a penalty to a person that violates a posted road restriction. If a permit is denied, a person may receive an

¹²⁹ Section 39-12-02 was also amended by section 1 of House Bill No. 1288, chapter 270, section 9 of Senate Bill No. 2011, chapter 36, and section 3 of Senate Bill No. 2097, chapter 258.

additional fee or condition from the city, county, or township in exchange for authorization to move an oversized or overweight vehicle on a road under the jurisdiction of the city, county, or township.

2. Upon any application for a permit to move a new manufactured building or modular unit from outside this state to be located anywhere within this state, the manufacturer is deemed to have certified that the new manufactured building or modular unit meets all applicable building codes and all applicable electrical wiring and equipment, plumbing, and fire standards. The state is not liable to any person for issuing a permit in violation of this subsection.
3. An appropriate charge must be made for each permit and all funds collected hereunder by the highway patrol must be deposited in the state highway fund for use in the construction and maintenance of highways and operating expenses of the department. Permit fees generated by a political subdivision must be deposited in the local authority's general fund for support of the local road system. Publicly owned vehicles that provide service beyond the agency's jurisdiction, official, publicly owned, emergency, or military vehicles are not subject to charges for permits. The minimum fee for selected charges is as follows:
 - a. The fee for the ten percent weight exemption, harvest and wintertime, is fifty dollars per month for fees paid on a monthly basis or two hundred fifty dollars per year for fees paid on a yearly basis. Unused fees paid on a monthly basis are refundable. Unused fees paid on a yearly basis are not refundable.
 - b. The fee for a non-self-issuing interstate permit is ten dollars per trip or three hundred dollars per calendar year for unlimited trips.
 - c. The fee for special mobile equipment is twenty-five dollars per trip.
 - d. The fee for engineering is twenty-five dollars per trip.
 - e. The fee for faxing a permit is five dollars.
 - f. The fee for a single trip permit is twenty dollars per trip.
 - g. The fee for a bridge length permit is thirty dollars per trip or one hundred fifty dollars per calendar year.
 - h. The fee for a longer combination vehicle permit is one hundred dollars per month for fees paid on a monthly basis.
 - i. The fee for an overwidth vehicle or load that is fourteen feet six inches [4.42 meters] or less is twenty dollars per trip or one hundred dollars per calendar year unless the vehicle is a noncommercial fishhouse trailer being moved by the owner, then the fee is twenty dollars per calendar year.
 - j. The highway patrol may establish an online electronic permit system. If the highway patrol establishes an online electronic permit system, the highway patrol shall assess an additional fifteen dollar fee for every permit issued under this section to be deposited into the motor carrier electronic permit transaction fund.
4. The director of tax equalization of the county of destination must be furnished a copy of the permit for the movement of an overdimensional mobile home.

5. Permits issued for overdimensional movements of vehicles that do not exceed ten feet [3.05 meters] in total width, including load, are valid for travel during the day and night.
6. There is created in the state treasury a fund known as the motor carrier electronic permit transaction fund. All money in the fund is appropriated on a continuing basis to the highway patrol to defray the costs of establishing and maintaining an online electronic permit system for permitting and routing oversize and overweight vehicles in this state. The highway patrol may contract with a private entity to establish, operate, and maintain an online electronic permit system. The online electronic permit system includes the issuance of permits under this section and an automated routing system. The automated routing system must include integration of department of transportation traveler information system information, all other data required for the automated routing system, and integration of the highway patrol computer-aided dispatch system.

SECTION 2. AMENDMENT. Section 39-12-03 of the North Dakota Century Code is amended and reenacted as follows:

39-12-03. Director or local authorities may limit use of vehicles on highways - Exception for inclement weather.

1. Whenever ~~any~~ highway will be seriously damaged or destroyed by reason of deterioration, rain, snow, or other climatic conditions unless the use of vehicles is prohibited or the weight of the vehicle thereon is limited, the director or employees authorized by the director by an order, and local authorities by ordinance or resolution, may prohibit the operation of vehicles upon such highway or may impose weight restrictions ~~as to the weight of on~~ vehicles. The director or employees making ~~such~~the order and local authorities enacting ~~any such~~the ordinance or resolution shall erect or cause to be erected and maintained signs designating the provisions of the order, ordinance, or resolution. ~~Such~~The signs must be erected and maintained at each end of ~~that~~the portion of ~~any~~ highway affected ~~thereby~~, and ~~such~~the order, ordinance, or resolution is not effective until ~~such~~the signs are erected and maintained. The operation of trucks or other commercial vehicles or limitations as to the weight ~~thereof~~ vehicles on designated highways may be prohibited or limited in the same manner.
2. In instances of inclement weather, as determined by the local authorities, changes may be made to existing posted restrictions on a portion of a highway if the local authority:
 - a. Gives public notice of the change in the posted restrictions on any portion of a highway by publishing the inclement weather restriction on the local authority's website and a uniform county permit system or similar permit system within one hour after the initial determination of inclement weather; and
 - b. Within five days of the first date of inclement weather, erects and maintains a sign at each end of the portion of the highway affected by the inclement weather restriction.

Approved April 13, 2017

Filed April 13, 2017

CHAPTER 272

HOUSE BILL NO. 1321

(Representatives C. Johnson, D. Anderson, D. Johnson, Jones)
(Senators Schaible, Wanzek)

AN ACT to amend and reenact subsection 4 of section 39-12-05.3 of the North Dakota Century Code, relating to weight limitations for vehicles on highways other than the interstate system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³⁰ **SECTION 1. AMENDMENT.** Subsection 4 of section 39-12-05.3 of the North Dakota Century Code is amended and reenacted as follows:

4. a. The director, and local authorities, as to the highways under their respective jurisdictions, may issue permits authorizing ~~a specific motor vehicle:~~
 - (1) ~~A farmer's farm vehicle or a motor carrier hired by a farmer to exceed the weight limitations stated in subsections 1 and 2 by ten percent. The permits may not provide for a gross weight in excess of one hundred five thousand five hundred pounds [47854.00 kilograms]. The permits must provide only for the movement of agricultural products from:~~
 - (a) ~~From the field of harvest to the point of initial storage site or to the first point of sale and transfer of possession during harvest; or~~
 - (b) ~~From the point of initial storage to the first point of sale and transfer of possession during the current year's harvest; or~~
 - (2) ~~A specific motor vehicle to exceed the weight limitations stated in subsections 1 and 2 by ten percent. The permits may not provide for a gross weight in excess of one hundred five thousand five hundred pounds [47854 kilograms]. The permits must provide only for the collection and transport of solid wastes, during the period from July fifteenth to December first, and for the general movement of products during the period from December first to March seventh.~~
- b. The appropriate jurisdictional authority shall establish an appropriate fee for the permits and direct how they shall be issued. The highway patrol shall issue the permits authorized by the director.

Approved April 12, 2017

Filed April 12, 2017

¹³⁰ Section 39-12-05.3 was also amended by section 2 of House Bill No. 1255, chapter 206.

CHAPTER 273

SENATE BILL NO. 2045

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact sections 39-12-14.1 and 39-12-20 of the North Dakota Century Code, relating to voluntary settlement of extraordinary road use fee charges and proceeds of sale deposited with the state treasurer; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-12-14.1 of the North Dakota Century Code is amended and reenacted as follows:

39-12-14.1. ~~(Effective through June 30, 2017)~~ Voluntary settlement of extraordinary road use fee charges.

Before the complaint is issued under section 39-12-14, the owner, or the owner's driver or agent, may voluntarily pay the amount of the extraordinary road use fee, or may provide proof of surety coverage to ensure payment of the extraordinary road use fee, provided under section 39-12-17, plus any towing or storage costs. Any settlement, whether made by the owner, or the owner's driver or agent, is presumed to be voluntary. A peace officer or a peace officer's designee is authorized to receive the settlement payment on behalf of the authority having jurisdiction over the road on which the violation occurred. The extraordinary road use fees for a violation on an interstate or on a state highway must be deposited with the state treasurer to be credited to the state highway fund. Extraordinary road use fees for a violation that did not occur on an interstate or a state highway must be deposited in the general fund of the jurisdiction having authority over the road on which the violation occurred and must be used for the support of the road system of that jurisdiction.

~~(Effective after June 30, 2017) Voluntary settlement of extraordinary road use fee charges. Before the complaint is issued pursuant to section 39-12-14, the owner, or the owner's driver or agent, may voluntarily pay the amount of the extraordinary road use fee, or may provide proof of surety coverage to ensure payment of the extraordinary road use fee, provided under section 39-12-17, plus any towing or storage costs. Any settlement, whether made by the owner, or the owner's driver or agent, must be presumed to be of a voluntary nature. A peace officer or a peace officer's designee is authorized to receive the settlement payment on behalf of the authority having jurisdiction of the road whereon the violation occurred. The extraordinary road use fees must be deposited with the state treasurer to be credited to the highway fund.~~

SECTION 2. AMENDMENT. Section 39-12-20 of the North Dakota Century Code is amended and reenacted as follows:

39-12-20. (Effective through June 30, 2017) Proceeds of sale - Continuing appropriation.

The proceeds of sale must be deposited with the state treasurer. For a violation on an interstate or a state highway, the state treasurer shall deposit in the state highway fund an amount equal to the amount of the charges assessed under section 39-12-17 after paying the costs to the county. For any violation, an amount equal to the costs of the proceedings, including attorney's and witness fees and costs, is appropriated on a continuing basis out of the funds collected to the county of prosecution for the purpose of defraying the costs of prosecution. From the proceeds of sale for a violation that did not occur on an interstate or a state highway, the amount of charges assessed under section 39-12-17 is appropriated on a continuing basis and must be deposited in the general fund in the jurisdiction in which the violation occurred and must be used for the support of the road system of that jurisdiction. The balance of the proceeds of any sale after the payment of costs and charges is appropriated on a continuing basis out of the funds collected to be paid to the person entitled to the proceeds as determined by the court or must be deposited with the clerk of court for payment to that person.

~~(Effective after June 30, 2017) Proceeds of sale – Continuing appropriation.~~

~~The proceeds of sale must be deposited with the state treasurer. The state treasurer shall deposit in the highway fund an amount equal to the amount of the charges assessed pursuant to section 39-12-17 after paying the costs to the county. An amount equal to the costs of the proceedings, including attorney's and witness fees and costs, is appropriated on a continuing basis out of the funds collected to the county in which the prosecution took place for the purpose of defraying the costs of prosecution. The balance of the proceeds of any sale after the payment of costs and charges is appropriated on a continuing basis out of the funds collected to be paid to the person entitled thereto as determined by the court or must be deposited with the clerk of court for such payment.~~

SECTION 3. EFFECTIVE DATE. This Act becomes effective on July 1, 2017.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 18, 2017

Filed April 18, 2017

CHAPTER 274

HOUSE BILL NO. 1323

(Representatives Owens, D. Anderson, Beadle, Sukut)
(Senators Bekkedahl, Kreun)

AN ACT to amend and reenact section 39-21-41.2 and 39-21-41.4 of the North Dakota Century Code, relating to child restraint devices and use of safety belts for children.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-21-41.2 of the North Dakota Century Code is amended and reenacted as follows:

39-21-41.2. Child restraint devices - Evidence.

1. If a child, under ~~seve~~eight years of age, is present in ~~anya~~ motor vehicle, that motor vehicle must be equipped with at least one child restraint system for ~~each such~~the child. However, a child under the age of ~~seve~~eight who is at least fifty-seven inches [1.45 meters] tall and ~~who weighs at least eighty pounds [36.28 kilograms]~~ is not required to use a child restraint system, but must be correctly buckled in a safety belt. The child restraint system must meet the standards adopted by the United States department of transportation for those systems [49 CFR 571.213]. While the motor vehicle is in motion, ~~each such~~the child must be properly secured in the child restraint system in accordance with the manufacturer's instructions. ~~A child weighing more than forty pounds [18.14 kilograms] may be restrained by a lap belt if the vehicle is not equipped with lap and shoulder belts or if all lap and shoulder belts are in use by other occupants.~~ While the motor vehicle is moving, each child of ~~seve~~eight through seventeen years of age who is in the motor vehicle must be in an approved child restraint system in accordance with the manufacturer's instructions or correctly buckled in a seatbelt safety belt. Use of child restraint systems and ~~seatbelt~~safety belts is not required in motor vehicles that were not equipped with seatbelt safety belts when manufactured. If a child is being transported in an emergency situation, this section does not apply.
2. Violation of this section is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation.

SECTION 2. AMENDMENT. Section 39-21-41.4 of the North Dakota Century Code is amended and reenacted as follows:

39-21-41.4. Use of safety belts required in certain motor vehicles - Enforcement - Evidence.

Subject to the limitations of this section and section 39-21-41.5, a driver may not operate upon a highway a motor vehicle designed for carrying fewer than eleven passengers, which was originally manufactured with safety belts unless each front seat occupant is wearing a properly adjusted and fastened safety belt. This section

does not apply to a child in a child restraint or ~~seats~~safety belt in accordance with section 39-21-41.2; to drivers of implements of husbandry; to operators of farm vehicles as defined in subsection 5 of section 39-04-19; to rural mail carriers while on duty delivering mail; to an occupant with a medical or physically disabling condition that prevents appropriate restraint in a safety belt, if a qualified physician, physician assistant, or advanced practice registered nurse states in a signed writing the nature of the condition and the reason restraint is inappropriate; or when all front seat safety belts are in use by other occupants. A physician, physician assistant, or advanced practice registered nurse who, in good faith, provides a statement that restraint would be inappropriate is not subject to civil liability. A violation for not wearing a safety belt under this section is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation.

Approved April 4, 2017

Filed April 4, 2017

CHAPTER 275

HOUSE BILL NO. 1102

(Transportation Committee)

(At the request of the Parks and Recreation Department)

AN ACT amend and reenact subsections 1 and 2 of section 39-29-04 and section 39-29-12 of the North Dakota Century Code, relating to off-highway vehicle out-of-state registration; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1 and 2 of section 39-29-04 of the North Dakota Century Code are amended and reenacted as follows:

1. Registration and payment of fees is not required of:
 - a. Off-highway vehicles owned and used by the United States or ~~another~~any state or its political subdivisions.
 - b. Off-highway vehicles registered in a foreign country and temporarily used in this state.
 - c. Off-highway vehicles validly licensed in another state and which have not been within this state for more than thirty consecutive days.
 - d. Off-highway vehicles used exclusively on private lands.
 - e. Off-highway vehicles used exclusively in organized track racing events.
2. ~~Off highway vehicles owned by the state or any of its political subdivisions are exempt from the registration fees in section 39-29-03. If an off-highway vehicle is exempt from registration under subdivision b or c of subsection 1, the owner shall purchase an out-of-state public trails and lands access permit received upon payment of a ten dollar per-year fee. Dealers or other agents authorized by the director of the parks and recreation department who sell out-of-state public trails and lands access permits may retain one dollar of the ten dollar per-year fee. The remainder of the fees collected under this subsection must be deposited in the off-highway vehicle fund.~~

SECTION 2. AMENDMENT. Section 39-29-12 of the North Dakota Century Code is amended and reenacted as follows:

39-29-12. Penalties.

Violation of subdivision b, c, or g of subsection 5 of section 39-29-09 is a class B misdemeanor. Violation of any other provision of section 39-29-09 is an infraction for which a fee of twenty dollars must be assessed. Violation of section 39-29-02 or subsection 2 of section 39-29-04 is an infraction, for which a fee of fifty dollars must be assessed. If the individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this chapter is an infraction, for which a fee of ten dollars must be assessed.

Approved March 9, 2017

Filed March 9, 2017

CHAPTER 276**HOUSE BILL NO. 1249**

(Representatives Beadle, Howe, Nathe, O'Brien, Roers Jones)
(Senators Casper, Meyer)

AN ACT to amend and reenact section 39-34-06 of the North Dakota Century Code, relating to regulation of transportation network companies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-34-06 of the North Dakota Century Code is amended and reenacted as follows:

39-34-06. Controlling authority.

Notwithstanding any other provision of law, transportation network companies and transportation network company drivers are governed exclusively by this chapter and chapter 26.1-40.1, and any rules adopted consistent with this chapter and adopted by the insurance commissioner under chapter 26.1-40.1. A political subdivision may not impose a tax on, or require a license for, a transportation network company or a transportation network company driver or subject a transportation network company to the political subdivision's rate, entry, operational, or other requirements. ~~A political subdivision may prohibit a transportation network company from operating without a state permit within the jurisdiction of the political subdivision.~~

Approved April 3, 2017

Filed April 4, 2017