

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1098

Introduced by

Transportation Committee

(At the request of the Highway Patrol)

1 A BILL for an Act to amend and reenact sections 39-08-05, 39-08-08, 39-08-10, 39-08-11,
2 39-08-13, 39-08-14, 39-08-15, and 39-08-16 of the North Dakota Century Code, relating to
3 reporting crashes and obtaining crash reports and data.

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

5 **SECTION 1. AMENDMENT.** Section 39-08-05 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **39-08-05. ~~Accidents~~Crashes involving damage to vehicle - Penalty.**

8 The driver of any vehicle involved in ~~an accident~~a crash resulting only in ~~damage to a~~
9 ~~vehicle which is driven or attended by any person~~ property damage to the driver's vehicle or any
10 other vehicle shall immediately stop ~~such~~the vehicle at the scene of ~~such accident~~the crash or
11 as close ~~thereto~~to the scene of the crash as possible but shall ~~forthwith~~ return to and ~~in every~~
12 ~~event shall~~ remain at the scene of ~~such accident~~the crash until the driver has fulfilled the
13 requirements of section 39-08-06 and 39-08-09. Every such stop must be made without
14 obstructing traffic more than is necessary. Any person failing to stop or comply with ~~said~~the
15 requirements ~~under such circumstances~~in this section is guilty of a class B misdemeanor.

16 **SECTION 2. AMENDMENT.** Section 39-08-08 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **39-08-08. Duty upon striking highway fixtures or other property.**

19 The driver of any vehicle involved in ~~an accident~~a crash resulting only in damage to
20 highway fixtures or other property shall take reasonable steps to locate and notify the owner or
21 person in charge of ~~such~~the property of ~~such fact and of the~~ damage. The driver shall provide
22 the driver's name and, address, and of the registration number of the vehicle the driver is driving
23 and shall upon request and if available exhibit the driver's operator's or chauffeur's license and,
24 The driver shall make report of ~~such accident~~the crash when and as required in section

1 39-08-09. The driver shall provide the name of the motor vehicle insurance policy carrier and
2 the policy number of the driver, or if the driver is not the owner of the vehicle, then the motor
3 vehicle insurance policy carrier and the policy number of the owner of the vehicle, to the owner
4 or person in charge of the damaged property or to the law enforcement officer investigating the
5 crash.

6 **SECTION 3. AMENDMENT.** Section 39-08-10 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **39-08-10. Officer to report.**

9 Every law enforcement officer, who in the regular course of duty investigates a motor
10 vehicle ~~accident~~crash required to be reported as provided in section 39-08-09 either at the time
11 and at the scene of the ~~accident~~crash or thereafter by interviewing the participants, or
12 witnesses, shall make and promptly forward to the director a report of the ~~accident~~crash in ~~athe~~
13 format prescribed by the director. The report must contain all the information required therein
14 unless the information is not available, and must be transmitted electronically to the department
15 of transportation using the software prescribed by the director.

16 **SECTION 4. AMENDMENT.** Section 39-08-11 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **39-08-11. When driver unable to report.**

- 19 1. ~~An accident~~A crash notice is not required from any person who is physically incapable
20 of making the report during the period of such incapacity.
- 21 2. Whenever the driver of a vehicle is physically incapable of giving an immediate notice
22 of ~~an accident~~a crash and there was another occupant in the vehicle at the time of the
23 ~~accident~~crash capable of doing so, ~~such~~the occupant shall make or cause to be given
24 the notice not given by the driver.
- 25 3. Whenever the driver is physically incapable of giving notice of ~~an accident~~a crash and
26 ~~such~~the driver is not the owner of the vehicle, then the owner of the vehicle involved
27 shall within five days after learning of the ~~accident~~crash give ~~such~~the notice and
28 insurance information not given by the driver.

29 **SECTION 5. AMENDMENT.** Section 39-08-13 of the North Dakota Century Code is
30 amended and reenacted as follows:

39-08-13. AccidentCrash report forms.

1. The director shall prepare and supply to law enforcement agencies, garages, and other suitable agencies or individuals forms for ~~accident~~crash reports required by law, appropriate with respect to the purposes to be served. The reports to be made by investigating officers shall call for sufficiently detailed information to disclose the cause of a traffic ~~accident~~crash, conditions then existing, persons and vehicles involved, and whether the requirements for the deposit of security under section 39-16-05 are applicable.
2. Every ~~accident~~crash report required to be made to the director must be made in the appropriate format or ~~approved~~prescribed by the director and must contain all the information required therein unless not available.
3. Every law enforcement officer who investigates a vehicle ~~accident~~crash for which a report must be made as required in this chapter shall forward a report of such ~~accident~~crash to the department within ten days after the ~~accident~~crash.
4. The reports required to be forwarded by law enforcement officers and the information contained in the reports ~~is when received by the director are~~ not privileged or confidential. ~~If, however, the investigating officer expresses an opinion as to fault or responsibility for the accident, the opinion is confidential and not open to public inspection, except as provided in subsection 5.~~ Crash reports held by ~~entitles a public entity~~ other than the department of transportation ~~and a law enforcement agency that contracts with service providers are exempt records~~. In addition, the following information contained in the report is an exempt record as defined in section 44-04-17.1 unless the requester is a party to the ~~accident~~crash, a party's legal representative, the insurer of any party to the ~~accident~~crash, the agent of that insurer, or the legal representative or insurer of an individual involved in defending or investigating a prior or subsequent claim or ~~accident~~crash involving a party to the ~~accident~~crash:
 - a. Driver identification number of a party in the report;
 - b. Telephone number of a party in the report;
 - c. Insurance company name and policy number of a party in the report; and
 - d. Day and month of birth of a party in the report.

- 1 5. Upon ~~affirmation by request from~~ a party to the ~~accident~~crash, a party's legal
2 representative, ~~or the insurer of any party to the accident that the investigating officer's~~
3 ~~opinion is material to a determination of liability~~crash, the agent of the insurer, or the
4 legal representative or insurer of an individual involved in defending or investigating a
5 prior or subsequent claim or crash involving a party to the crash, and upon payment of
6 a fee of ~~five~~up to seven dollars, the director ~~or investigating agency~~ shall release a
7 completed copy of the ~~investigating officer's opinion~~crash report to the entity
8 requesting the information. The request must be made on an ~~appropriate~~the form
9 ~~approved~~prescribed by the director.
- 10 6. Upon request of any person and upon payment of a fee of ~~two~~up to seven dollars, the
11 director ~~or the law enforcement agency~~ may furnish to a requester a copy of that
12 ~~portion of an investigating officer's accident~~crash report which does not disclose the
13 ~~opinion of the reporting officer or~~ contain any exempt information that may not be
14 disclosed, if the report shows that the ~~accident~~crash is one for which a driver is
15 required to file a report under section 39-08-09.
- 16 7. Copies of ~~accident~~crash reports are not admissible as evidence in any action for
17 damages or criminal proceedings arising out of a motor vehicle ~~accident~~crash.
- 18 8. The director, without a request under subsection 4 or 5, may send a copy of an
19 ~~accidenta~~ crash report to the registered owner of each vehicle involved as indicated by
20 the report.

21 **SECTION 6. AMENDMENT.** Section 39-08-14 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **39-08-14. Public inspection of reports relating to ~~accidents~~crashes.**

- 24 1. All ~~accident~~crash reports made by persons involved in ~~accidents~~crashes or by garages
25 shall be without prejudice to the individual so reporting and shall be for the confidential
26 use of the department or other state agencies having use for the records for
27 ~~accident~~crash prevention purposes, or for the administration of the laws of this state
28 relating to the deposit of security and proof of financial responsibility by persons
29 driving or the owners of motor vehicles, except that the department may disclose the
30 identity of a person involved in an ~~accidenta~~ crash when such identity is not otherwise
31 known or when such person denies the person's presence at such ~~accident~~crash.

2. All ~~accident~~crash reports and supplemental information filed in connection with the administration of the laws of this state relating to the deposit of security or proof of financial responsibility are confidential and not open to general public inspection, nor may copying of lists of such reports be permitted.

3. No written reports or written information mentioned in this section may be used as evidence in any trial, civil or criminal, arising out of an ~~accident~~a crash, except that the director shall furnish upon demand of any party to such trial, or upon demand of any court, a certificate showing that a specified ~~accident~~crash report has or has not been made to the director in compliance with law.

~~4. The department may disclose exempt information referred to in subsection 4 of section 39-08-13 to any person, on proof of the identity of the person requesting a record and representation by the requestor that the use of the exempt information will be strictly limited to one or more of the following:~~

~~a. For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person acting on behalf of a government agency in carrying out its functions.~~

~~b. For use in connection with matters of motor vehicle or public safety and theft.~~

~~c. For use in research activities and producing statistical reports.~~

~~5.~~ Notwithstanding any other provisions of this chapter, any information compiled or otherwise made available to the department pursuant to this chapter must be transmitted to each and every duly authorized official or agency of the United States requesting such.

SECTION 7. AMENDMENT. Section 39-08-15 of the North Dakota Century Code is amended and reenacted as follows:

39-08-15. Director of the department of transportation to tabulate and analyze ~~accident~~crash reports.

The director shall tabulate and may analyze all ~~accident~~crash reports and shall publish annually, or at more frequent intervals, statistical information based thereon as to the number and circumstances of traffic ~~accidents~~crashes.

SECTION 8. AMENDMENT. Section 39-08-16 of the North Dakota Century Code is amended and reenacted as follows:

1 **39-08-16. Any incorporated city may require accidentcrash reports.**

2 Any incorporated city or other municipality may by ordinance require that the driver of a
3 vehicle involved in an ~~accident~~ crash shall file with a designated city department a report of
4 such ~~accident~~ crash or a copy of any report herein required to be filed with the director. All such
5 reports must be for the confidential use of the city department and subject to the provisions of
6 section 39-08-14.