Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023

HOUSE BILL NO. 1038
(Legislative Management)
(Judiciary Committee)

AN ACT to create and enact a new subdivision to subsection 1 of section 27-20.2-21 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references; and to amend and reenact subsection 9 of section 12.1-31-01.2, subsection 8 of section 12.1-31.2-01, subsection 1 of section 15-08-19.2, subsection 5 of section 15-08-19.3, section 15-11-37, paragraph 1 of subdivision a of subsection 2 of section 19-24.1-01, paragraph 1 of subdivision b of subsection 2 of section 19-24.1-01, subsection 8 of section 23-09-01, subsections 24 and 34 of section 26.1-05-19, subsection 7 of section 26.1-17-33.1, subsection 6 of section 32-19-41, sections 37-01-16 and 39-06-32, subsection 4 of section 39-06-33, subdivision i of subsection 2 of section 39-06-49, subsection 5 of section 39-06.1-11, sections 40-34-13 and 40-35-02, subsection 11 of section 43-23-06.1, sections 54-21.3-05, 57-15-06, and 57-15-08, and subsection 6 of section 61-32-03.1 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 9 of section 12.1-31-01.2 of the North Dakota Century Code is amended and reenacted as follows**:**

9. If the respondent knows of an order issued under subsections 4 and 5, or subsection 6, violation of the order is a class A misdemeanor and also constitutes contempt of court. A second or subsequent violation of a protection order is a class C felony. If the existence of an order issued under subsection ~~3~~4, or subsections ~~4~~5 and ~~5~~6 can be verified by a peace officer, the officer, without a warrant, may arrest and take into custody an individual whom the peace officer has probable cause to believe has violated the order.

SECTION 2. AMENDMENT. Subsection 8 of section 12.1-31.2-01 of the North Dakota Century Code is amended and reenacted as follows:

8. If the respondent knows of an order issued under subsection 4 or 5, violation of the order is a class A misdemeanor. If the existence of an order issued under subsection ~~3~~4 or ~~4~~5 can be verified by a peace officer, the officer, without a warrant, may arrest and take into custody an individual whom the peace officer has probable cause to believe has violated the order.

SECTION 3. AMENDMENT. Subsection 1 of section 15-08-19.2 of the North Dakota Century Code is amended and reenacted as follows:

1. Nonvehicular public access to leased and unleased trust lands is allowed if in the best interests of the trusts, unless:

   a. Specifically prohibited by the commissioner of university and school lands; or

   b. A lessee of any lands under the control of the board of university and school lands posts the land with signage issued by the department of trust lands, which:

      (1) Requires notification to the lessee before entry by the public; or

      (2) Closes the trust lands to all public access.

SECTION 4. AMENDMENT. Subsection 5 of section 15-08-19.3 of the North Dakota Century Code is amended and reenacted as follows:

5. When hunting under a special permit issued by the director of the game and fish department to shoot from a stationary vehicle and with written permission from the lessee and commissioner of university and school lands.

SECTION 5. AMENDMENT. Section 15-11-37 of the North Dakota Century Code is amended and reenacted as follows:

15-11-37. Acceptance of gifts by dean of ~~medical school~~university of North Dakota school of medicine and health sciences - Continuing appropriation.

Notwithstanding any other provisions of law, the dean of the university of North Dakota ~~medical~~ school of medicine and health sciences may accept and receive gifts, grants, bequests, and donations that are hereby appropriated for use by the university of North Dakota ~~medical~~ school of medicine and health sciences.

SECTION 6. AMENDMENT. Paragraph 1 of subdivision a of subsection 2 of section 19-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:

(1) During a thirty-day period, a registered qualifying patient may not purchase or have purchased by a registered designated caregiver more than two and one-half ounces [70.87 grams] of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form.

SECTION 7. AMENDMENT. Paragraph 1 of subdivision b of subsection 2 of section 19-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:

(1) During a thirty-day period a registered qualifying patient may not purchase or have purchased by a registered designated caregiver more than six ounces [170.01 grams] of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form.

SECTION 8. AMENDMENT. Subsection 8 of section 23-09-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Lodging establishment" includes every building or structure, or any part thereof, which is kept, used, maintained, or held out to the public as a place where sleeping accommodations are furnished for pay to transient guests. The term does not include a facility providing personal care services directly or through contract services as ~~defined in~~provided under section 23-09.3-01 or 50-32-01.

SECTION 9. AMENDMENT. Subsection 24 of section 26.1-05-19 of the North Dakota Century Code is amended and reenacted as follows:

24. First mortgage bonds on improved city real estate in any state, issued by a corporation duly incorporated under the laws of any state of the United States, if the loans on the real estate are made in accordance with the requirements as to first mortgage loans in subsection ~~24~~23.

SECTION 10. AMENDMENT. Subsection 34 of section 26.1-05-19 of the North Dakota Century Code is amended and reenacted as follows:

34. Foreign investments of substantially the same types as those permitted under subsections 19 and 20 ~~and 21~~,.

a. Under this subsection, a foreign investment is subject to the following restrictions and limitations:

~~a.~~ (1) Foreign investments issued, assumed, guaranteed, or insured by a single person may not exceed three percent of the insurance company's admitted assets.

~~b.~~ (2) Foreign investments in a single foreign jurisdiction may not exceed in the aggregate ten percent of the insurance company's admitted assets as to a foreign jurisdiction that has a sovereign debt rating of one as determined by the securities valuation office of the national association of insurance commissioners or three percent of the insurance company's admitted assets as to any other foreign jurisdiction.

~~c.~~ (3) Foreign investments may not exceed in the aggregate twenty percent of the insurance company's admitted assets.

b. Investments acquired under this subsection ~~shall~~must be aggregated with investments of the same type made under subsection ~~21~~20 for purposes of determining compliance with the limitations contained in that subsection.

c. For purposes of this subsection, a foreign investment means an investment in a foreign jurisdiction or an investment in a legal entity domiciled in a foreign jurisdiction. A foreign jurisdiction is any jurisdiction other than the United States, any state or possession of the United States, Canada, or any province of Canada.

SECTION 11. AMENDMENT. Subsection 7 of section 26.1-17-33.1 of the North Dakota Century Code is amended and reenacted as follows:

7. A nonprofit mutual insurance company may avail itself of the additional investment authority under chapter 26.1-10. Upon approval by the commissioner after a showing of good cause by the nonprofit mutual insurance company, aggregate investments in all subsidiaries of the company under subsection ~~21~~20 of section 26.1-05-19 and under chapter 26.1-10 may exceed an amount equal to twenty-five percent of the company's admitted assets.

SECTION 12. A new subdivision to subsection 1 of section 27-20.2-21 of the North Dakota Century Code is created and enacted as follows:

The information technology department to the extent authorized by the supreme court for use in the statewide longitudinal data system.

SECTION 13. AMENDMENT. Subsection 6 of section 32-19-41 of the North Dakota Century Code is amended and reenacted as follows:

6. If the record title owner cannot be located, any remainder from the proceeds of a sale must be delivered to the administrator of the state abandoned property office in accordance with chapter ~~47-30.1~~47-30.2.

SECTION 14. AMENDMENT. Section 37-01-16 of the North Dakota Century Code is amended and reenacted as follows:

37-01-16. Unlawful conversion of military property - Unlawful wearing of uniforms and devices indicating rank - Penalty.

~~Any~~It is a class B misdemeanor for a person ~~who shall~~to:

1. Secretly sell, dispose of, offer for sale, purchase, retain after a demand made by a commissioned officer of the national guard, or in any manner pawn or pledge any arms, uniforms, equipment, or other military property issued under the provisions of this title; or

2. Wear any uniform or any device, strap, knot, or insignia of any design or character used as a designation of grade, rank, or office, prescribed by law, or by general regulation duly promulgated, for the use of the national guard, or any device, strap, knot, or insignia similar thereto, unless the person is a member of the army or navy of the United States or of the

national guard of this or any other state, a member of an association wholly composed of soldiers who have been honorably discharged from the service of the United States, or a member of the order of sons of veterans~~, is guilty of a class B misdemeanor~~.

SECTION 15. AMENDMENT. Section 39-06-32 of the North Dakota Century Code is amended and reenacted as follows:

39-06-32. Authority to suspend licenses.

~~1.~~ The director may suspend the operator's license of an individual, after hearing, upon proof by a fair preponderance of the evidence, that any of the following apply to the licensee:

~~a.~~1. Commission of an offense for which mandatory revocation of license is required upon conviction.

~~b.~~2. Incompetence to drive a motor vehicle.

~~c.~~3. Unlawful or fraudulent use of an operator's license.

~~d.~~4. Refusal to submit to an implied consent chemical test on an Indian reservation or in another state. For purposes of this subsection, the specific requirements for establishing a refusal used on the Indian reservation or in the other state may not be considered, and photostatic copies of the records of the other jurisdiction's driver's licensing authority are sufficient evidence of the refusal whether those copies are certified. The suspension must be for the same length of time as the revocation in section 39-20-04. If the refusal arose out of an arrest or stop of an individual while operating a commercial motor vehicle, the period of suspension must be the same as the period of revocation provided in section 39-06.2-10.

~~2.~~5. Failure, as shown by the certificate of the court, to pay a fine or serve any other sentence as ordered by a court upon conviction for any criminal traffic offense.

~~3.~~6. Failure, as shown by the certificate of the court, to appear in court or post and forfeit bond after signing a promise to appear, if signing is required by law, in violation of section 39-06.1-04, willful violation of a written promise to appear in court, in violation of section 39-07-08, or violation of equivalent ordinances or laws in another jurisdiction. Upon resolution by the operator of the underlying cause for a suspension under this subsection, as shown by the certificate of the court, the director shall record the suspension separately on the driving record. This separate record is not available to the public.

~~4.~~7. An administrative decision on an Indian reservation or in another state that the licensee's privilege to drive on that Indian reservation or in that state is suspended or revoked because of a violation of that Indian reservation's or state's law forbidding motor vehicle operation with 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, or because of a violation of that Indian reservation's or state's law forbidding the driving or being in actual physical control of a commercial motor vehicle while having an alcohol concentration of at least four one-hundredths of one percent by weight. The specific requirements for establishing the violation on the Indian reservation or in the other state may not be considered and certified copies of the records of the Indian reservation's or other state's driver's licensing authority are sufficient evidence of the violation. The suspension must be for the same duration as the suspension in section 39-20-04.1, if the violation does not involve a commercial motor vehicle. If the violation involves a commercial motor vehicle, the period of suspension must be the same as the period of suspension provided in section 39-06.2-10. For purposes of this section, originals, photostatic copies, or electronic transmissions of the records of the driver's licensing or other authority of the other jurisdiction are sufficient evidence whether they are certified copies.

~~5.~~8. Conviction of an offense under this title and it appears from the director's records that the offense contributed to causing an accident which resulted in death or serious personal injury or serious property damage. A suspension may not be imposed if the individual has been sanctioned for the same offense under section 39-06-31.

SECTION 16. AMENDMENT. Subsection 4 of section 39-06-33 of the North Dakota Century Code is amended and reenacted as follows:

4. If a suspension is ordered under ~~subdivision b of~~ subsection ~~1~~2 of section 39-06-32, the notice must include a specific description of the conditions which led to the conclusion that the licensee is incompetent to drive a motor vehicle. If during the suspension those conditions dissipate, the licensee may request another hearing on the issue of competence to drive a motor vehicle. The hearing must be held in the manner required under subsections 2 and 3 for the original suspension.

SECTION 17. AMENDMENT. Subdivision i of subsection 2 of section 39-06-49 of the North Dakota Century Code is amended and reenacted as follows:

i. Reinstatement after suspension is fifty dollars unless the suspension was the result of a suspension under subsection 3, 4, or 6 of section 39-06-03 or ~~subdivision b of~~ subsection ~~1~~2 of section 39-06-32, then the fee is twenty-five dollars, or unless the suspension was a result of a violation under section 39-08-01 or chapter 39-20, then the fee is one hundred dollars.

SECTION 18. AMENDMENT. Subsection 5 of section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

5. The director may not issue a temporary restricted license for a period of license revocation or suspension imposed under section 39-06-31. A temporary restricted license may be issued for suspensions ordered under subsection ~~4~~7 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct.

SECTION 19. AMENDMENT. Section 40-34-13 of the North Dakota Century Code is amended and reenacted as follows:

40-34-13. Residue of money remaining after payment of bonds - Disposal.

After the principal and interest on the bonds secured by a first mortgage or deed of trust on an improvement as provided in this chapter have been fully paid, as the governing body of the municipality or the respective governing bodies of the municipalities may direct by resolution, the revenues of such utility and improvement set apart for the payment of such bonds may be:

1. Used for the repair, improvement, or extension of such utility or improvement;

2. Credited to the interest and sinking fund established for the retirement and payment of the general liability bonds; or

3. Transferred to the general fund~~, as the governing body of the municipality or the respective governing bodies of the municipalities may direct by resolution~~.

SECTION 20. AMENDMENT. Section 40-35-02 of the North Dakota Century Code is amended and reenacted as follows:

40-35-02. Undertaking defined.

The term "undertaking", as used in this chapter, unless a different meaning clearly appears from the context~~, means~~:

1. Means systems, plants, works, instrumentalities, and properties used in revenue-producing undertakings, or any combination of two or more of such undertakings, which are used or useful in connection with:

~~1.~~ a. The obtaining of a water supply and the conservation, treatment, distribution, and disposal of water for public and private uses;

~~2.~~ b. The collection, treatment, and disposal of sewage, waste, and storm water;

~~3.~~ c. The generation, production, transmission, and distribution of natural, artificial, or mixed gas, or electric energy, for lighting, heating, and power for public and private uses;

~~4.~~ d. The operation of parking lots, trailer courts, and facilities for motor vehicles and house trailers;

~~5.~~ e. The purchase, acquisition, or establishment, maintenance, and operation of a public transportation system;

~~6.~~ f. The purchase, acquisition, construction, establishment, maintenance, and operation of an airport and the facilities and services in connection therewith; and

~~7.~~ g. The purchase, acquisition, construction, maintenance, and operation of a hospital; ~~together with~~and

2. Includes all parts of any such undertaking and all appurtenances ~~thereto~~to the undertakings, including lands, easements, rights in land, water rights, contract rights, franchises, approaches, dams, reservoirs, generating stations, sewage disposal plants, intercepting sewers, trunk connections, other sewer and water mains, filtration works, pumping stations, and equipment, and facilities in and upon such buildings and lands.

SECTION 21. AMENDMENT. Subsection 11 of section 43-23-06.1 of the North Dakota Century Code is amended and reenacted as follows:

11. "Real estate salesperson" means any person that for a fee, compensation, salary, or other consideration, or in the expectation or upon the promise of that compensation, is employed or engaged by a licensed real estate broker to do any act or deal in any transaction as provided in subsection ~~6~~9 for or on behalf of such licensed real estate broker.

SECTION 22. AMENDMENT. Section 54-21.3-05 of the North Dakota Century Code is amended and reenacted as follows:

54-21.3-05. Enforcement of code by city, township, or county - Relinquishment.

A city or township may administer and enforce the state building code only within its jurisdictional area. A county may administer and enforce the state building code within those areas of the county in which the state building code is not administered by a city or township. Cities and townships may relinquish their authority to administer and enforce the state building code to the county in which they are located in the manner provided by section ~~11-33-20~~54-40.5-03. The governing body of a city, township, or county electing to administer and enforce the state building code may designate an enforcement agency. Cities, townships, and counties may provide by agreement for joint administration and enforcement and may contract for private enforcement of the state building code.

SECTION 23. AMENDMENT. Section 57-15-06 of the North Dakota Century Code is amended and reenacted as follows:

57-15-06. County general fund levy.

The board of county commissioners may levy property taxes for county general fund purposes at a tax rate not exceeding sixty mills per dollar of taxable valuation of property in the county.

~~A county that levied more than sixty mills for taxable year 2015 for the combined number of mills levied for general fund purposes plus the number of mills levied for other purposes which were combined into the general fund for taxable years after 2014 may levy for general fund purposes for taxable year 2016 the same number of mills that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2017 sixty mills plus seventy-five percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2018 sixty mills plus fifty percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2019 sixty mills plus twenty-five percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015.~~

Unless a specific exception is provided by statute, the county general fund levy limitation under this section applies to all property taxes the board of county commissioners is authorized to levy for general county purposes.

SECTION 24. AMENDMENT. Section 57-15-08 of the North Dakota Century Code is amended and reenacted as follows:

57-15-08. General fund levy limitations in cities.

The aggregate amount levied for city general fund purposes may not exceed an amount produced by a levy of one hundred five mills on the taxable valuation of property in the city. A city, when authorized by a majority vote of the electors of the city voting on the question at a regularly scheduled or special election called for such purpose pursuant to a resolution approved by the governing body of the city, may increase the maximum mill levy for general city purposes by not more than ten mills.

~~A city that levied more than one hundred five mills for taxable year 2015 in the combined number of mills levied for general fund purposes plus the number of mills levied for other purposes which were combined into the general fund for taxable years after 2014 may levy for general fund purposes for taxable year 2016 the same number of mills that was levied for those purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2017 one hundred five mills plus seventy-five percent of the combined number of mills exceeding one hundred five that was levied for those purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2018 one hundred five mills plus fifty percent of the combined number of mills exceeding one hundred five that was levied for those purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2019 one hundred five mills plus twenty-five percent of the combined number of mills exceeding one hundred five that was levied for those purposes for taxable year 2015.~~

SECTION 25. AMENDMENT. Subsection 6 of section 61-32-03.1 of the North Dakota Century Code is amended and reenacted as follows:

6. Upon approval of a permit, the district shall forward notice of the approved permit and the downstream flow map to the ~~state engineer~~department of water resources and to each landowner who owns property within one mile [1.61 kilometers] downstream of each project outlet according to the tax rolls of the county in which the property is located, unless the distance to the nearest assessment drain, natural watercourse, slough, or lake is less than one mile [1.61 kilometers] downstream of the proposed outlet, in which case the district shall provide notice to landowners with property between the outlet and the nearest assessment drain, natural watercourse, slough, or lake. The district shall send copies of the notice by first-class mail, attested by an affidavit of mailing. The district does not need to provide copies of the permit application under this subsection.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1038.

House Vote:	Yeas 91	Nays 1	Absent 2
Senate Vote:	Yeas 45	Nays 0	Absent 2

Chief Clerk of the House

Received by the Governor at _____M. on _____, 2023.

Approved at _____M. on _____, 2023.

Governor

Filed in this office this _____day of _____, 2023,

at _____ o'clock _____M.

Secretary of State