

MOTOR VEHICLES

CHAPTER 342

SENATE BILL NO. 2191

(Senators Burckhard, Axtman, Barta)
(Representatives Ista, Karls)

AN ACT to amend and reenact subsection 4 of section 39-01-15 of the North Dakota Century Code, relating to adding physical therapists as health care professionals who can sign statements for applications for mobility-impaired parking certificates; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 39-01-15 of the North Dakota Century Code is amended and reenacted as follows:

4. The director may issue 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, chiropractor, physical therapist, 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, physical therapist, or an advanced practice registered nurse if the applicant has previously submitted an application containing a certification from a qualified physician, physician assistant, chiropractor, physical therapist, 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, physical therapist'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, physical therapist, 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, physical therapist'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, physical therapist'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, to a mobility-impaired individual to whom a certificate has been issued under this subsection. The additional certificates may ~~only~~ be used only by or on behalf of the mobility-impaired individual.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 343

HOUSE BILL NO. 1169

(Representatives D. Ruby, K. Anderson, Fegley, Nathe, Nelson, M. Ruby, Schatz)
(Senators Dever, Mathern, Paulson, Rust)

AN ACT to amend and reenact section 39-04-10.2 of the North Dakota Century Code, relating to license plates for mobility-impaired individuals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-10.2 of the North Dakota Century Code is amended and reenacted as follows:

39-04-10.2. Special plates for mobility-impaired individuals.

The director may issue, without charge, upon application and payment of the regular license fee, plates marked with the international symbol of accessibility for the mobility impaired, to a motor vehicle owner possessing a parking certificate issued under subsection 4 of section 39-01-15. One set of plates per mobility-impaired individual may be issued to a vehicle the mobility-impaired individual is not listed as the owner of if the vehicle is designated for the exclusive use of transporting that mobility-impaired individual. This section is not applicable to an applicant possessing more than one parking certificate issued under subsection 4 of section 39-01-15.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 344

HOUSE BILL NO. 1336

(Representatives Koppelman, Christy, Heinert, Holle, Mock, S. Olson, Timmons,
Wagner, Warrey)
(Senators Estenson, Weston)

AN ACT to amend and reenact section 39-04-10.16 of the North Dakota Century Code, relating to special license plates for emergency responders, firefighters, and search and rescue personnel.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-10.16 of the North Dakota Century Code is amended and reenacted as follows:

39-04-10.16. Special vehicle license plates for volunteer emergency responders and volunteer firefighters, and volunteer search and rescue personnel.

1. As used in this section:

- a. "Fire department" means a certified city fire department, certified rural fire department, or certified fire protection district that has filed a certificate of existence under section 18-04-02.
- b. "Volunteer emergency responder" means an emergency medical services provider certified by the department of health and human services and the individual's squad leader for a continuous period exceeding two years and who receives an annual compensation of less than ten thousand dollars.
- c. "Volunteer firefighter" means an active member in good standing with a North Dakota fire department who has had a continuous membership for a period exceeding two years and receives an annual compensation of less than ten thousand dollars from the fire department.
- d. "Volunteer search and rescue personnel" includes water and dive rescue personnel and means an active member:
 - (1) Of an organization that at the request of a state entity, political subdivision, or volunteer fire department deploys, coordinates, and uses available resources and personnel in locating, relieving the distress of, preserving the life of, or extracting an individual who is missing, trapped, or lost in remote areas or waters of the state;
 - (2) In good standing and with continuous membership for a period exceeding two years with an organization under paragraph 1; and
 - (3) Who receives an annual compensation of less than ten thousand dollars from an organization under paragraph 1.

2. Upon application, the director shall issue red personalized plates to volunteer emergency responders and, volunteer firefighters, and volunteer search and rescue personnel at no initial or annual cost to the volunteers. Qualified applicants are eligible to receive one set of plates. Plates may not be displayed on a vehicle with a registered gross weight exceeding twenty thousand pounds [9071.85 kilograms]. The first three digits of the plate are the last three digits of the zip code where the volunteer's department or organization is located. The remaining space may contain up to three characters of the volunteer's choosing. This plate serves as an entrance pass to all North Dakota state parks. In cooperation with the volunteer organizations, the director shall designate qualifications and verification procedures for the plates issued under this section.
3. On termination of the registrant's eligibility, the registrant shall return the plates to the director, who shall reissue for a fee of not more than five dollars, and upon payment of applicable registration fees, another number plate to which that registrant is entitled under this chapter.
4. If a registrant fails to return the plates to the director, the director, upon notification of the registrant's ineligibility, may revoke the plates and reissue for a fee of not more than five dollars, and upon payment of applicable registration fees, another number plate for which the registrant is entitled under this chapter.

Approved March 15, 2023

Filed March 16, 2023

CHAPTER 345

HOUSE BILL NO. 1080

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

AN ACT to amend and reenact section 39-04-55 of the North Dakota Century Code, relating to allowing electronic proof of motor vehicle registration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-55 of the North Dakota Century Code is amended and reenacted as follows:

39-04-55. Registration card to be carried in or on vehicle - Inspection of card - Penalty.

The registration card issued for a vehicle must be carried in the driver's compartment of the vehicle or on an electronic device in the possession of the driver or, in the case of a housetrailer or mobile home or a trailer or semitrailer, regardless of when such vehicle was acquired, inside or on the vehicle, at all times while the vehicle is being operated upon a highway in this state. The card registration is subject to inspection by any peace officer or highway patrol officer. Upon request of an inspection by any peace officer or highway patrol officer, a driver may produce either a registration card or electronic registration as provided by the department. An electronic registration must be designed so that there is no need for the registration holder to relinquish possession of the device, in which the electronic registration is installed, to present the registration, or for the individual to whom the registration is presented to access the verification system to confirm the validity of the registration. Any person violating this section must be assessed a fee of twenty dollars. However, a person cited for violation of this section may not be found to have committed the violation if the person, within fourteen days after being cited produces and displays to the office of the prosecutor where the matter is pending, a registration card valid at the time the person was cited. A peace officer or highway patrol officer, upon citing a person for violating this section, shall inform the person that a violation will be considered as not having occurred if the person produces and displays a valid registration card in the manner provided in this section.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 346

SENATE BILL NO. 2111

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

AN ACT to amend and reenact section 39-05-09 of the North Dakota Century Code, relating to certificate of title to be allowed in electronic form.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-05-09 of the North Dakota Century Code is amended and reenacted as follows:

39-05-09. Issuance, contents, delivery, and term of certificate.

1. After checking the application for a certificate as provided in section 39-05-08 and except as provided in subsection 4, the department, if it is satisfied that the applicant is the person entitled to the possession of the vehicle, shall issue a certificate of title in paper or electronic form, which must contain:
 - a. The name of the owner.
 - b. The vehicle identification number.
 - c. The signature of the director.
 - d. The date issued.
 - e. A description of the vehicle as determined by the department.
 - f. A statement of the owner's title and of all liens or encumbrances upon the vehicle therein described and whether possession is held by the owner or lienholder.
2. ~~Upon the reverse side of such certificate must be contained forms~~ Forms must be made available on the reverse side of the paper version or electronically for the assignment of title or interest and warranty thereof by the owner with a space for the notation of liens and encumbrances upon such vehicle at the time of a transfer.
3. The amount of any lien or encumbrance upon the vehicle need not be shown anywhere on the certificate of title, only the fact of such lien or encumbrance, and the identity of the lienholder or encumbrancer. The department shall deliver the certificate of title to the owner or first lienholder. The certificate is good for the life of the vehicle as long as the vehicle is owned or held by the original holder of the certificate.
4. The department may not issue a certificate of title for a manufactured home with respect to which there has been recorded an affidavit of affixation under section 47-10-27.

5. The holder of a manufacturer's certificate of origin to a manufactured home may deliver it to a person to facilitate conveying or encumbering the manufactured home. A person receiving a manufacturer's certificate of origin so delivered holds the certificate in trust for the person delivering the certificate.
6. Notwithstanding any other provision of law, a certificate of title issued by the department for a manufactured home is prima facie evidence of the facts appearing on the certificate, notwithstanding that the manufactured home, at any time, becomes affixed in any manner to real property.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 347

HOUSE BILL NO. 1318

(Representatives Kasper, Hoverson, Koppelman, Rohr, D. Ruby, M. Ruby, Steiner)
(Senators Myrdal, Vedaa)

AN ACT to amend and reenact subsection 2 of section 39-06-03.1, subsection 5 of section 39-06-14, and subsection 1 of section 39-06-14.2 of the North Dakota Century Code, relating to nondriver photo identification cards and operator licenses for noncitizens.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-06-03.1 of the North Dakota Century Code is amended and reenacted as follows:

2. The director shall issue a nondriver color photo identification card to any resident who at the time of application is not a citizen of the United States and who fulfills the requirements of this section. The identification card must be designed in a manner to clearly make the card distinguishable from a similar card issued to a citizen of the United States and resident of this state. Upon the issuance of an identification card, the department of transportation shall provide a written notice that indicates the naturalized individual shall contact the department of transportation to update the individual's citizenship status. The individual shall update the citizenship status within forty-five days following naturalization. The director shall ~~replace the card~~ may be replaced with a card issued to a citizen of this country and resident of this state only when proof of United States citizenship is provided by the individual and any applicable replacement fee listed in section 39-06-49 is paid. For identification cards issued under this subsection before August 1, 2023, the department of transportation shall provide by mail to each cardholder a written notice that indicates within the forty-five days following naturalization, the naturalized individual shall contact the department of transportation to update the individual's citizenship status.

SECTION 2. AMENDMENT. Subsection 5 of section 39-06-14 of the North Dakota Century Code is amended and reenacted as follows:

5. The director shall issue an operator's license to any resident who at the time of application is not a citizen of the United States and who fulfills the requirements of this section. The license must be designed in a manner to distinguish the license clearly from a similar license issued to a citizen of the United States and resident of this state. Upon the issuance of a license, the department of transportation shall provide a written notice that indicates the naturalized individual shall contact the department of transportation to update the individual's citizenship status. The individual shall update the citizenship status within forty-five days following naturalization. The director shall ~~replace the license issued under this subsection~~ may be replaced with a card issued to a citizen of this country and resident of this state only when proof of United States citizenship is provided by the individual and the replacement fee listed in section 39-06-49 is paid. For licenses issued under this subsection before August 1, 2023, the department of transportation shall provide by mail to each

licenseholder a written notice that indicates within the forty-five days following naturalization, the naturalized individual shall contact the department of transportation to update the individual's citizenship status.

SECTION 3. AMENDMENT. Subsection 1 of section 39-06-14.2 of the North Dakota Century Code is amended and reenacted as follows:

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~~using driver record data. Upon an individual's change in citizenship status under section 39-06-03.1 or 39-06-14, the director shall report to the secretary of state the individual's updated information as required under section 16.1-02-09.

Approved April 4, 2023

Filed April 5, 2023

CHAPTER 348

HOUSE BILL NO. 1280

(Representatives Roers Jones, Bahl, Ista, Klemin, Satrom, Schneider)
(Senators Hogue, Larson, Sickler)

AN ACT to create and enact a new subsection to section 39-06.1-11 and sections 39-06-36.1 and 54-12-27.1 of the North Dakota Century Code, relating to temporary restricted licenses, restoration of revoked or suspended licenses upon successful completion of drug court, and partial suspension of twenty-four seven sobriety program for drug court program participants; to amend and reenact subsections 3 and 7 of section 39-06.1-11 of the North Dakota Century Code, relating to temporary restricted licenses; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 39-06-36.1 of the North Dakota Century Code is created and enacted as follows:

39-06-36.1. Restoration of revoked or suspended licenses upon successful completion of drug court.

Upon an individual's successful completion of an approved adult drug court program, if ordered by the district court, the director shall reinstate the driving privileges of the individual for any noncommercial license suspension or revocation imposed under law. A reinstatement fee is not required for reinstatement of driving privileges under this section.

¹⁹⁸ **SECTION 2. AMENDMENT.** Subsection 3 of section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~AFor any suspension or revocation imposed under the law, the director shall issue a temporary restricted license must be issued in accordance with subsection 7 if the offender is participating in and compliant with the twenty-four seven sobriety program under chapter 54-12 or if the offender has not committed an offense for a period of one year before the date of the filing of a written application. The application must be accompanied by:~~
 - a. Proof of financial responsibility and a report from an appropriate licensed addiction treatment program and, if prescribed, proof of compliance with attendance rules in an appropriate licensed addiction treatment program; or
 - b. ~~If the offender is participating in the drug court twenty-four seven sobriety program or other court ordered treatment or sobriety program, a recommendation from the district court, proof of program participation.~~

¹⁹⁸ Section 39-06.1-11 was also amended by section 4 of House Bill No. 1280, chapter 348, section 18 of House Bill No. 1038, chapter 65, and section 3 of House Bill No. 1280, chapter 348.

¹⁹⁹ **SECTION 3. AMENDMENT.** Subsection 7 of section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

7. If an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance, or if the offender's license is subject to suspension under chapter 39-20 and the offender's operator's license is not subject to an unrelated suspension or revocation in this state, the director shall issue a temporary restricted license to the offender upon the restriction the offender participate in the twenty-four seven sobriety program under chapter 54-12. The offender shall submit an application to the director for a temporary restricted license along with submission of proof of financial responsibility and proof of participation in the twenty-four seven sobriety program to receive a temporary restricted license.

²⁰⁰ **SECTION 4.** A new subsection to section 39-06.1-11 of the North Dakota Century Code is created and enacted as follows:

If an offender is participating in an approved drug court program, the court may order issuance of a temporary restricted license. Upon application by the offender, the director shall issue a temporary restricted license to the participant subject to conditions specified by the court.

- a. The application must be accompanied by proof of financial responsibility, the court's order, and the designated reinstatement fee.
- b. For purposes of this subsection, "approved drug court program" means a district court-supervised treatment program approved by the supreme court.

SECTION 5. Section 54-12-27.1 of the North Dakota Century Code is created and enacted as follows:

54-12-27.1. Partial suspension of twenty-four seven sobriety program for drug court program participants.

1. For purposes of this section, "approved drug court program" means a district court-supervised treatment program approved by the supreme court.
2. A district court may suspend any ordered period of participation in the twenty-four seven sobriety program, including mandatory participation required by law, for an offender participating in an approved drug court program while under supervised probation with the department of corrections and rehabilitation.
3. A district court suspending participation in the twenty-four seven sobriety program shall issue a certificate of waiver of twenty-four seven sobriety program participation.

¹⁹⁹ Section 39-06.1-11 was also amended by section 4 of House Bill No. 1280, chapter 348, section 18 of House Bill No. 1038, chapter 65, and section 2 of House Bill No. 1280, chapter 348.

²⁰⁰ Section 39-06.1-11 was also amended by section 18 of House Bill No. 1038, chapter 65, section 2 of House Bill No. 1280, chapter 348, and section 3 of House Bill No. 1280, chapter 348.

4. For purposes of issuance of a temporary restricted operator's license under section 39-06.1-11, the director of the department of transportation shall treat a court certificate of waiver of twenty-four seven sobriety program participation as if the offender was participating in the twenty-four seven sobriety program.

SECTION 6. EMERGENCY. Sections 1, 2, 3, and 4 of this Act are declared to be an emergency measure.

Approved March 22, 2023

Filed March 23, 2023

CHAPTER 349

HOUSE BILL NO. 1417

(Representatives Nelson, Louser, O'Brien)
(Senators Klein, Vedaa)

AN ACT to amend and reenact subsection 1 of section 39-06.1-10 of the North Dakota Century Code, relating to entries against a driving record.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰¹ **SECTION 1. AMENDMENT.** Subsection 1 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

1. If a report of a conviction of a traffic offense, or admission or adjudication of a traffic violation is received by the director, the director shall proceed to enter the proper points on the licensee's driving record, ~~unless the points assigned to the violation are two or less. If the points assigned to the violation are two or less, the violation and points may not be entered on the driving record but must be recorded separately, and the separate record is not available to the public. Points from a violation in which the points are two or less are considered a part of the driving record for the sole purpose of point reduction under section 39-06.1-13 and for purposes of license suspension.~~ If the driving record shows that the licensee has accumulated a total of twelve or more points, assigned on the basis of the schedule contained in subsection 3, the director shall notify the licensee of the director's intention to suspend the operator's license under section 39-06-33. For the purposes of this chapter, the director also may receive and act on reports of traffic offense convictions forwarded by federal, military, and tribal courts in this state.

Approved March 29, 2023

Filed March 30, 2023

²⁰¹ Section 39-06.1-10 was also amended by section 1 of House Bill No. 1061, chapter 350.

CHAPTER 350

HOUSE BILL NO. 1061

(Transportation Committee)
(At the request of the Highway Patrol)

AN ACT to create and enact a new subsection to section 39-21-39 and section 39-21-39.1 of the North Dakota Century Code, relating to windows impairing vision of a driver; and to amend and reenact paragraph 16 of subdivision a of subsection 3 of section 39-06.1-10 and sections 39-10-16 and 39-10-24 of the North Dakota Century Code, relating to entries against driving record, rotary traffic islands, and stop and yield signs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰² **SECTION 1. AMENDMENT.** Paragraph 16 of subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

- (16) Driving on wrong side of road in violation of 2 points
section 39-10-08, 39-10-14, or
subsection 1, 2, or 3 of section 39-10-16, or
equivalent ordinances

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

39-10-16. One-way roadways and rotary traffic islands.

1. The director and local authorities with respect to highways under their respective jurisdictions may designate any highway, roadway, part of a roadway, or specific lanes upon which vehicular traffic shall proceed in one direction at all or such times as shall be indicated by official traffic-control devices.
2. Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or at such times as shall be indicated by official traffic-control devices.
3. A vehicle passing around a rotary traffic island must be driven only to the right of such island.
4. After a vehicle enters a rotary traffic island, the vehicle may not exit from any position within the rotary traffic island without first giving a signal of intention to exit the rotary traffic island.

SECTION 3. AMENDMENT. Section 39-10-24 of the North Dakota Century Code is amended and reenacted as follows:

²⁰² Section 39-06.1-10 was also amended by section 1 of House Bill No. 1417, chapter 349.

39-10-24. Stop signs and yield signs.

1. Preferential right of way may be indicated by stop signs or yield signs as authorized in section 39-07-03.
2. Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways and shall yield the right of way to any other vehicle previously stopped for another stop sign at the intersection if the intersection is clear for each driver to proceed.
3. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, or, if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Provided, however, that if a driver is involved in a collision with a vehicle in the intersection or junction of roadways after driving past a yield sign without stopping, such collision is deemed prima facie evidence of the driver's failure to yield the right of way.

SECTION 4. A new subsection to section 39-21-39 of the North Dakota Century Code is created and enacted as follows:

Subsection 4 does not apply to nonreflective suncreening or window tinting material above the AS-1 line or within the top five inches [12.7 centimeters] of the windshield.

SECTION 5. Section 39-21-39.1 of the North Dakota Century Code is created and enacted as follows:

39-21-39.1. Windshield impairing vision of drivers.

A windshield may not be shattered or in such a defective condition that the windshield materially impairs or obstructs the driver's clear view.

Approved April 20, 2023

Filed April 21, 2023

CHAPTER 351

SENATE BILL NO. 2112

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

AN ACT to create and enact section 39-06.2-08.2 of the North Dakota Century Code, relating to the drug and alcohol clearinghouse requirements for commercial drivers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 39-06.2-08.2 of the North Dakota Century Code is created and enacted as follows:

39-06.2-08.2. Commercial driver's license drug and alcohol clearinghouse requirements.

1. The director shall query a federal drug and alcohol clearinghouse before issuing, renewing, upgrading, or transferring a commercial driver's license or commercial learner's permit and review the driver's information when notified by the clearinghouse of a status change.
2. The director shall downgrade or remove the commercial driving privilege from the license if the licensee is found to be in violation or noncompliance with the clearinghouse requirements and until the driver complies with the return-to-duty requirements.
3. If the driver complies with the return-to-duty requirements pursuant to the limitations of 49 CFR Part 392, subpart B, the director shall upgrade the license of a driver which was downgraded under this section.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 352

HOUSE BILL NO. 1506

(Representatives Roers Jones, Frelich, Mock, Motschenbacher, D. Ruby, Wagner)
(Senators Barta, Myrdal)

AN ACT to create and enact a new section to chapter 39-10.1 of the North Dakota Century Code, relating to bicycling or riding an animal while under the influence of alcohol or drugs; to amend and reenact section 39-07-01 and subsection 1 of section 39-10.1-01 of the North Dakota Century Code, relating to a bicycle and a ridden animal being deemed a vehicle; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-07-01 of the North Dakota Century Code is amended and reenacted as follows:

39-07-01. Bicycle or ridden animal to be deemed vehicle.

For

1. Except as provided in subsection 2, for the purposes of chapters 39-08 through 39-13, a bicycle or a ridden animal must be deemed a vehicle.
2. For purposes of section 39-08-01, a bicycle or ridden animal may not be deemed a vehicle.

SECTION 2. AMENDMENT. Subsection 1 of section 39-10.1-01 of the North Dakota Century Code is amended and reenacted as follows:

1. It is unlawful for any person to do any act forbidden or fail to perform any act required in this chapter. AnyExcept as provided in section 3 of this Act, a person who violates any of the provisions of this chapter may be assessed a fee not to exceed five dollars.

SECTION 3. A new section to chapter 39-10.1 of the North Dakota Century Code is created and enacted as follows:

Bicycling or riding an animal while under the influence of alcohol or drugs - Penalty.

An individual operating a bicycle or riding an animal on a roadway, or an area the public has access to, may not be under the influence of alcohol or any drug to a degree which renders the individual a hazard to themselves or the general public. An individual who violates this section must be assessed a fee of two hundred dollars.

Approved April 7, 2023

Filed April 10, 2023

CHAPTER 353

HOUSE BILL NO. 1316

(Representatives Mock, Christy, Ista, Koppelman, Louser, D. Ruby, Wagner, Warrey)
(Senators Conley, Meyer)

AN ACT to create and enact a new section to chapter 39-10.1 of the North Dakota Century Code, relating to multipassenger bicycles; to amend and reenact sections 39-01-01, 39-08-01, 39-08-18, and 39-10.1-08 of the North Dakota Century Code, relating to definitions relating to multipassenger bicycles, driving while under the influence of intoxicating liquor, open container prohibition, and exempting multipassenger bicycles from the point system; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

39-01-01. Definitions.

In this title, unless the context or subject matter otherwise requires:

1. "Appropriate licensed addiction treatment program" means an addiction treatment program conducted by an addiction facility licensed by the department of health and human services or conducted by a licensed individual specifically trained in addiction treatment.
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.
 - (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 department of health and human services in cases of emergencies.
 - (13) Vehicles used or operated by governmental search and rescue personnel while performing emergency operations or duties. As used in this paragraph, "search and rescue" means deployment, coordination, and use of available resources and personnel in locating, relieving the distress, and preserving the life of and removing an individual who is missing, trapped, or lost in the backcountry, remote areas, or waters of the state. The term includes water and dive rescue.
- 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.
 - (4) Vehicles used by volunteer search and rescue personnel if performing an emergency operation or duty upon the request of a state entity, political subdivision, or volunteer fire department. A volunteer organization may classify a personal vehicle as a class C emergency vehicle if needed to assist in a search and rescue operation in accordance with this paragraph. As used in this paragraph, "search and rescue" means deployment, coordination, and use of available resources and personnel in locating, relieving the distress, and preserving the life of and removing an individual who is missing, trapped, or lost in the backcountry, remote areas, or waters of the state. The term includes water and dive rescue.

3. "Bicycle" means every device propelled solely by human power upon which any person may ride, having two tandem wheels or two parallel wheels and one forward or rearward wheel. The term includes an electric bicycle and a multipassenger bicycle.
4. "Bus" means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. Provided, every motor vehicle designed for carrying not more than fifteen persons and used for a ridesharing arrangement, as defined in section 8-02-07, is not a "bus".
5. "Business district" means the territory contiguous to a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet [91.44 meters] or more is occupied by buildings in use for business.
6. "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.
7. "Cancellation" means a license is annulled and terminated because of an error or defect or because the licensee is no longer entitled to the operator's license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after the cancellation.
8. "Child restraint system" means a specifically designed device, built-in seating system, or belt-positioning booster that meets the federal motor vehicle safety standards and is permanently affixed to a motor vehicle, is affixed to the vehicle by a safety belt or universal attachment system, or is combined with a federally compliant safety belt system.
9. "Commercial freighting" means the carriage of things other than passengers, for hire, except that such term does not include:
 - a. The carriage of things other than passengers within the limits of the same city;
 - b. Carriage by local dray lines of baggage or goods to or from a railroad station from or to places in such city or in the immediate vicinity thereof, in this state, and not to exceed two miles [3.22 kilometers] from the corporate or recognized limits of said city; or
 - c. Hauling done by farmers for their neighbors in transporting agricultural products to or from market.
10. "Commercial passenger transportation" means the carriage of passengers for hire, except that the term does not include:
 - a. The carriage of passengers within the limits of a city.
 - b. The carriage by local buslines of passengers to or from a railroad station from or to places within any city or within two miles [3.22 kilometers] of the limits of the city.

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- c. The carriage of passengers under a ridesharing arrangement, as defined in section 8-02-07.
11. "Commissioner" means the director of the department of transportation of this state, acting directly or through authorized agents as provided by section 24-02-01.3.
 12. "Controlled-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.
 13. "Conviction" means a final order or judgment or conviction by the North Dakota supreme court, any lower court having jurisdiction, a tribal court, or a court in another state if an appeal is not pending and the time for filing a notice of appeal has elapsed. Subject to the filing of an appeal, the term includes:
 - a. An imposed and suspended sentence;
 - b. A deferred imposition of sentence under subsection 4 of section 12.1-32-02; or
 - c. A forfeiture of bail or collateral deposited to secure a defendant's appearance in court and the forfeiture has not been vacated.
 14. "Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.
 15. "Dealer" means every person, partnership, corporation, or limited liability company engaged in the business of buying, selling, or exchanging motor vehicles, or who advertises, or holds out to the public as engaged in the buying, selling, or exchanging of motor vehicles, or who engages in the buying of motor vehicles for resale. Any person, partnership, corporation, limited liability company, or association doing business in several cities or in several locations within a city must be considered a separate dealer in each such location.
 16. "Department" means the department of transportation of this state as provided by section 24-02-01.1.
 17. "Director" means the director of the department of transportation of this state as provided by section 24-02-01.3.
 18. "Driver" means every person who drives or is in actual physical control of a vehicle.
 19. "Electric bicycle" means a bicycle equipped with fully operable pedals, a saddle or seat for the rider, and an electric motor of seven hundred fifty or fewer watts which meets the requirements of one of the following three classes:

- a. A class 1 electric bicycle if the motor provides assistance only when the individual is pedaling and the motor ceases to provide assistance when a speed of twenty miles [32 kilometers] per hour is achieved.
 - b. A class 2 electric bicycle if the motor is capable of propelling the bicycle without the individual pedaling and the motor ceases to provide assistance when a speed of twenty miles [32 kilometers] per hour is achieved.
 - c. A class 3 electric bicycle if the motor provides assistance only when the individual is pedaling and the motor ceases to provide assistance when a speed of twenty-eight miles [45 kilometers] per hour is achieved.
20. "Electronic communication device" means an electronic device, including a wireless telephone, personal digital assistant, a portable or mobile computer or other device, and video display equipment. The term does not include a global positioning system or navigation system or a device that is physically or electronically integrated into the motor vehicle.
 21. "Essential parts" means all integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation and includes all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.
 22. "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or by destroying life or limb.
 23. "Farm tractor" includes every motor vehicle designed and used primarily as a farm implement for drawing plows, moving machines, and other implements of husbandry.
 24. "Farm trailer" includes those trailers and semitrailers towed by a bona fide resident farmer hauling the farmer's own agricultural, horticultural, dairy, and other farm products if the gross weight, not including the towing vehicle, does not exceed twenty-four thousand pounds [10886.22 kilograms].
 25. "Fifth-wheel travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.
 26. "Flammable liquid" means any liquid which has a flash point of seventy degrees Fahrenheit [21.11 degrees Celsius], or less, as determined by a tagliabue or equivalent closed-cup test device.

27. "Foreign vehicle" means every motor vehicle which is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.
28. "Gross weight" means the weight of a vehicle without load plus the weight of any load thereon.
29. "Guest" means and includes a person who accepts a ride in any vehicle without giving compensation therefor.
30. "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and of every way privately maintained within a mobile home park, trailer park, or campground containing five or more lots for occupancy by mobile homes, travel trailers, or tents when any part thereof is open for purposes of vehicular travel.
31. "House car" or "motor home" means a motor vehicle which has been reconstructed or manufactured primarily for private use as a temporary or recreational dwelling and having at least four of the following permanently installed systems:
 - a. Cooking facilities.
 - b. Icebox or mechanical refrigerator.
 - c. Potable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both.
 - d. Self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, or both.
 - e. Heating or air-conditioning system, or both, separate from the vehicle engine or the vehicle engine electrical system.
 - f. A 110-115 volt alternating current electrical system separate from the vehicle engine electrical system either with its own power supply or with a connection for an external source, or both, or a liquefied petroleum system and supply.
32. "Implement of husbandry" means every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highway.
33. "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two roadways thirty feet [9.14 meters] or more apart, then every crossing of each roadway of such divided highway by an intersecting highway must be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet [9.14 meters] or more apart, then every

crossing of two roadways of such highways must be regarded as a separate intersection.

34. "Intoxicating liquor" means and includes any beverage containing alcohol.
35. "Judgment" means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state of the United States, upon a claim for relief arising out of ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a claim for relief on an agreement of settlement for such damages.
36. "Legal owner" means a person who holds the legal title to a vehicle.
37. "Licensed health care provider" means doctor of medicine, doctor of osteopathy, doctor of chiropractic, optometrist, psychologist, advanced practice registered nurse, or physician assistant who is licensed, certified, or registered in accordance with laws and regulations in this or another state.
38. "Lienholder" means a person holding a security interest in a vehicle.
39. "Local authorities" includes every county, municipal, and other local board or body having authority to adopt local police regulations under the constitution and laws of this state.
40. "Mail" means to deposit mail properly addressed and with postage prepaid with the United States postal service.
41. "Manifest injustice" means a specific finding by the court that the imposition of sentence is unreasonably harsh or shocking to the conscience of a reasonable person, with due consideration of the totality of circumstances.
42. "Manufactured home" means a structure, transportable in one or more sections, that, in the traveling mode, is eight body feet [2.44 meters] or more in width or forty body feet [12.19 meters] or more in length, or, when erected onsite, is three hundred twenty square feet [29.73 square meters] or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to whether the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under title 42 of the United States Code.
43. "Manufacturer" means any person who manufactures, assembles, or imports and sells new motor vehicles to new motor vehicle dealers for resale in the state; but such term does not include a person who assembles or specially builds interior equipment on a completed vehicle supplied by another manufacturer, distributor, or supplier.

44. "Metal tires" includes all tires the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material except that this provision does not apply to pneumatic tires.
45. "Mobile home" means a structure, either single or multisectional, which is built on a permanent chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, owned or used as a residence or place of business of the owner or occupant, which is either attached to utility services or is twenty-seven feet [8.23 meters] or more in length.
46. "Modular unit" includes every factory fabricated transportable building unit designed to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational, or industrial purposes.
47. "Motor vehicle" includes every vehicle that is self-propelled, every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and, for purposes of motor vehicle registration, title registration, and operator's licenses, motorized bicycles. The term does not include a snowmobile as defined in section 39-24-01 or an electric bicycle, or a multipassenger bicycle.
48. "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding implements of husbandry. The term does not include an electric bicycle.
49. "Motorized bicycle" means a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion or footrests for use by the operator, a power source providing up to a maximum of two brake horsepower having a maximum piston or rotor displacement of 3.05 cubic inches [49.98 milliliters] if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed thirty miles [48.28 kilometers] per hour on a level road surface, and a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged, and the vehicle may not have a width greater than thirty-two inches [81.28 centimeters]. The term does not include an electric bicycle.
50. "Motor-powered recreational vehicle" means a motorcycle, unconventional vehicle, or off-highway vehicle as defined in section 39-29-01, or a snowmobile as defined in section 39-24-01. The term does not include an electric bicycle.
51. "Multipassenger bicycle" means a vehicle that:
 - a. Has fully operative pedals for propulsion entirely by human power;
 - b. Has at least four wheels and is operated in a manner similar to a bicycle;
 - c. Has at least five seats for passengers;
 - d. Has been designed to be occupied by a driver and powered either by passengers providing pedal power to the drive train of the vehicle or by a motor capable of propelling the vehicle in the absence of human power;

- e. Is used for commercial purposes;
- f. Is operated by the owner of the vehicle or an employee of the owner of the vehicle;
- g. Is equipped with a steering wheel that gives the driver exclusive control of the direction of the vehicle;
- h. Is equipped with at least one taillamp in accordance with section 39-21-04;
- i. Is equipped with a stop lamp in accordance with subsection 1 of section 39-21-19; and
- j. Is equipped with headlamps in accordance with section 39-27-17.1.

51-52. "Nonresident" means any person who is not a resident of this state.

52-53. "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this state.

53-54. "Official traffic-control devices" means all signs, signals, markings, and devices not inconsistent with this title placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

54-55. "Operator" means every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

55-56. "Operator's license", "driver's license", or "license to operate a motor vehicle" means any operator's or driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

- a. Any temporary license or instruction permit;
- b. The privilege of any person to drive a motor vehicle whether such person holds a valid license; or
- c. Any nonresident's operating privilege as defined in this section.

56-57. "Owner" means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

57-58. "Park", when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

58-59. "Passenger motor vehicle" means every motor vehicle designed principally for the transportation of persons and includes vehicles which utilize a truck chassis, but have a seating capacity for four or more passengers.

- 59-60. "Pedestrian" means any person afoot.
- 60-61. "Person" includes every natural person, firm, copartnership, association, corporation, or limited liability company.
- 61-62. "Pneumatic tires" includes all tires inflated with compressed air.
- 62-63. "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.
- 63-64. "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
- 64-65. "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.
- 65-66. "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.
- 66-67. "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring after the effective date of the proof, arising out of the ownership, maintenance, or use of a motor vehicle, in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to the limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of twenty-five thousand dollars because of injury to or destruction of property of others in any one accident.
- 67-68. "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.
- 68-69. "Railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.
- 69-70. "Reconstructed vehicle" means any vehicle, of a type required to be registered, materially altered from its original construction by the removal, addition, or substitution of new or used essential parts.
- 70-71. "Recreational vehicle" means any motorcycle not qualified for registration, off-highway vehicle, snowmobile, vessel, or personal watercraft. The term does not include an electric bicycle.
- 71-72. "Residence district" means territory contiguous to a highway not comprising a business district, when the frontage on such highway for a distance of three hundred feet [91.44 meters] or more is occupied mainly by dwellings, or by dwellings and buildings in use for business.

- 72-73.** "Revocation" means that the operator's license is terminated and may not be renewed or restored, except on application for a new license presented to and acted upon by the director after the expiration of the period of revocation.
- 73-74.** "Right of way" means the privilege of the immediate use of a roadway.
- 74-75.** "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.
- 75-76.** "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein refers to any such roadway separately but not to all such roadways collectively.
- 76-77.** "Saddle mount" means placing the front wheels of the drawn vehicle upon the bed of the drawing vehicle.
- 77-78.** "Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set aside as a safety zone.
- 78-79.** "Salvage certificate of title" means a document issued by the department for purposes of proof of ownership of a salvage or destroyed vehicle and not acceptable for motor vehicle registration purposes.
- 79-80.** "Schoolbus" means a motor vehicle designed or used to carry more than ten passengers in addition to the driver, and is used for the purpose of transporting preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-related events. For the purposes of chapter 39-21, "schoolbus" means any motor vehicle that is owned or leased by a public or governmental agency and used to transport preprimary, primary, or secondary school students to or from school or to or from school-related events, or is privately owned and operated for compensation to transport preprimary, primary, or secondary school students to or from school or to or from school-related events. Schoolbus does not include a bus used as a common carrier.
- 80-81.** "Semitrailer" includes every vehicle of the trailer type so designed and used in conjunction with a truck or truck tractor that some part of its own weight and that of its own load rests upon or is carried by a truck or truck tractor, except that it does not include a "houstrailer" or "mobile home".
- 81-82.** "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.
- 82-83.** "Solid tire" includes every tire made of rubber or other resilient material other than a pneumatic tire.
- 83-84.** "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway.

- 84-85.** "Specially constructed vehicle" means any vehicle which was not constructed originally under the distinct name, make, model, or type by a generally recognized manufacturer of vehicles.
- 85-86.** "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.
- 86-87.** "State" means a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of the Dominion of Canada.
- 87-88.** "Stop", when required, means complete cessation from movement.
- 88-89.** "Stop" or "stopping", when prohibited, means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.
- 89-90.** "Street" means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
- 90-91.** "Superintendent" means the superintendent of the North Dakota state highway patrol, acting directly or through authorized employees of the superintendent.
- 91-92.** "Suspension" means that the operator's license is temporarily withdrawn but only during the period of the suspension.
- 92-93.** "Through highway" means every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right of way to vehicles on such through highway and in obedience to either a stop sign or yield sign, when such signs are erected by law.
- 93-94.** "Trackless trolley coach" means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.
- 94-95.** "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highway for purposes of travel.
- 95-96.** "Traffic-control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.
- 96-97.** "Trailer" includes every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle, except that it does not include a "housetrailer" or "mobile home", which terms mean a vehicle as defined in this subsection which is designed and intended for use as living or sleeping quarters for people and which is not used for commercial hauling of passengers.

- 97-98. "Travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require a special highway movement permit when towed by a motorized vehicle.
- 98-99. "Truck" includes every motor vehicle designed, used, or maintained primarily for transportation of property.
- 99-100. "Truck camper" means a portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use; consists of a roof, floor, and sides; and is designed to be loaded onto and unloaded from the bed of a pickup truck.
- 400-101. "Truck tractor" includes every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
- 404-102. "Urban district" means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred feet [30.48 meters] for a distance of a quarter of a mile [402.34 meters] or more.
- 402-103. "Used vehicle" means a motor vehicle which has been sold, bargained, exchanged, given away, or the title to which has been transferred to another, by the person who first acquired it from the manufacturer or importer, dealer, or agent of the manufacturer or importer.
- 403-104. "Vehicle" includes every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks. The term does not include an electric bicycle.

SECTION 2. AMENDMENT. Section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

39-08-01. Persons under the influence of intoxicating liquor or any other drugs or substances not to operate vehicle - Penalty.

1. a. A person may not drive or be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if any of the following apply:
 - a. (1) That person has an alcohol concentration of at least eight 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.
 - b. (2) That person is under the influence of intoxicating liquor.
 - c. (3) That person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely driving.
 - d. (4) That person is under the combined influence of alcohol and any other drugs or substances to a degree which renders that person incapable of safely driving.

e. (5) That individual refuses to submit to any of the following:

- (1) (a) 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) (b) 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.

f. ~~Subdivision e~~

~~(6) Paragraph 5 does not apply to an individual unless the individual has been advised of the consequences of refusing a chemical test consistent with the Constitution of the United States and the Constitution of North Dakota.~~

~~b. The fact any person charged with violating this section is or has been legally entitled to use alcohol or other drugs or substances is not a defense against any charge for violating this section. It is an affirmative defense that a drug was used only as directed or cautioned by a practitioner who legally prescribed or dispensed the drug to that person. If the individual violated subdivisions a, b, c, or d of this subsection and subdivision e of this subsection paragraph 1, 2, 3, or 4 of subdivision a of this subsection and paragraph 5 of subdivision a of this subsection and the violations arose from the same incident, for purposes of suspension or revocation of an operator's license, the violations are deemed a single violation and the court shall forward to the department of transportation only the conviction for driving under the influence or actual physical control.~~

~~c. The driver of a multipassenger bicycle is subject to a violation of this section but a multipassenger bicycle passenger may not be charged with a violation of this section.~~

2. An individual who operates a 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 who refuses to submit to a chemical test, or tests, required under section 39-06.2-10.2 or 39-20-01, is guilty of an offense under this section.
3. An individual violating this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second offense in a seven-year period, of a class A misdemeanor for a third offense in a seven-year period, and of a class C felony for any fourth or subsequent offense within a fifteen-year period. The minimum penalty for violating this section is as provided in subsection 5. The court shall take judicial notice of the fact that an offense would be a subsequent offense if indicated by the records of the director or may make a subsequent offense finding based on other evidence.
4. Upon conviction of a second or subsequent offense within seven years under this section or equivalent ordinance, the court may order the motor vehicle

number plates of all of the motor vehicles owned and operated by the offender at the time of the offense to be destroyed by the office of the police officer that made the arrest. The offender shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the office and notify the department of the order. An offender who does not provide the number plates to the court at the appropriate time is subject to revocation of probation. The court may make an exception to this subsection, on an individual basis, to avoid undue hardship to an individual who is completely dependent on the motor vehicle for the necessities of life, including a family member of the convicted individual and a co-owner of the motor vehicle, or if the offender is participating in the twenty-four seven sobriety program.

5. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection.
 - a. (1) For a first offense, the sentence must include both a fine of at least five hundred dollars and an order for addiction evaluation by an appropriate licensed addiction treatment program.
 - (2) In addition, for a first offense when the convicted person has an alcohol concentration of at least sixteen one-hundredths of one percent by weight, the offense is an aggravated first offense and the sentence must include a fine of at least seven hundred fifty dollars and at least two days' imprisonment.
 - b. For a second offense within seven years, the sentence must include at least ten days' imprisonment, of which forty-eight hours must be served consecutively; a fine of one thousand five hundred dollars; an order for addiction evaluation by an appropriate licensed addiction treatment program; and at least three hundred sixty days' participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
 - c. For a third offense within seven years, the sentence must include at least one hundred twenty days' imprisonment; a fine of at least two thousand dollars; an order for addiction evaluation by an appropriate licensed addiction treatment program; at least three hundred sixty days' supervised probation; and at least three hundred sixty days' participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
 - d. For a fourth or subsequent offense within fifteen years, the sentence must include at least one year and one day's imprisonment; a fine of at least two thousand dollars; an order for addiction evaluation by an appropriate licensed treatment program; at least two years' supervised probation; and participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
 - e. The imposition of sentence under this section may not be deferred under subsection 4 of section 12.1-32-02 for an offense subject to this section.
 - f. If the offense is subject to subdivision a or b, a municipal court or district court may not suspend a sentence, but may convert each day of a term of imprisonment to ten hours of community service for an offense subject to

paragraph 2 of subdivision a. If the offense is subject to subdivision c, the district court may suspend a sentence, except for sixty days' imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation. If the offense is subject to subdivision d, the district court may suspend a sentence, except for one year's imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation. If the defendant is found to be in need of alcohol and substance abuse treatment and rehabilitation, the district court may order the defendant placed under the supervision and management of the department of corrections and rehabilitation and is subject to the conditions of probation under section 12.1-32-07. The district court may require the defendant to complete alcohol and substance abuse treatment and rehabilitation under the direction of the drug court program as a condition of probation in accordance with rules adopted by the supreme court. The district court may terminate probation under this section when the defendant completes the drug treatment program. If the district court finds that a defendant has failed to undergo an evaluation or complete treatment or has violated any condition of probation, the district court shall revoke the defendant's probation and shall sentence the defendant in accordance with this subsection.

- g. For purposes of this section, conviction of an offense under a law or ordinance of another state which is equivalent to this section must be considered a prior offense if such offense was committed within the time limitations specified in this section.
- h. If the penalty mandated by this section includes imprisonment or placement upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo treatment at an appropriate licensed addiction treatment program under subdivision g of subsection 1 of section 12.1-32-02 and the time spent by the defendant in the treatment must be credited as a portion of a sentence of imprisonment or placement under this section. A court may not order the department of corrections and rehabilitation to be responsible for the costs of treatment in a private treatment facility.
- i. If the court sentences an individual to the legal and physical custody of the department of corrections and rehabilitation, the department may place the individual in an alcohol treatment program designated by the department. Upon the individual's successful completion of the alcohol treatment program, the department shall release the individual from imprisonment to begin the court-ordered period of probation. If there is not any court-ordered period of probation, the court may order the individual to serve the remainder of the sentence of imprisonment on supervised probation and the terms and conditions must include participation in the twenty-four seven sobriety program and any terms and conditions of probation previously imposed by the court. Probation under this subsection may include placement in another facility or treatment program. If an individual is placed in another facility or treatment program after release from imprisonment, the remainder of the individual's sentence of imprisonment must be considered time spent in custody. Individuals

incarcerated under this section subsequent to a second probation revocation are not eligible for release from imprisonment upon the successful completion of treatment.

- j. If the individual has participated in the twenty-four seven sobriety program as a condition of pretrial release or for the purpose of receiving a temporary restricted operator's license under section 39-06.1-11, the sentencing court may give credit for the time the individual has already served on the twenty-four seven sobriety program when determining the amount of time the individual must serve on the twenty-four seven sobriety program for the purposes of probation, if that individual has not violated the twenty-four seven sobriety program before sentencing.
6. As used in subdivisions b and c of subsection 5, the term "imprisonment" includes house arrest. As a condition of house arrest, a defendant may not consume alcoholic beverages. The house arrest must include a program of electronic home detention and the defendant shall participate in the twenty-four seven sobriety program. The defendant shall defray all costs associated with the electronic home detention. For an offense under subdivision b or c of subsection 5, no more than ninety percent of the sentence may be house arrest.
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 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. Section 39-08-18 of the North Dakota Century Code is amended and reenacted as follows:

39-08-18. Open container law - Penalty.

1. A person may not drink or consume alcoholic beverages, as defined in section 5-01-01, in or on any motor vehicle when the vehicle is upon a public highway or in an area used principally for public parking. A person may not have in that person's possession on that person's person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It is unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle is kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with

a trunk. A utility compartment or glove compartment must be deemed to be within the area occupied by the driver and passengers. This subsection does not prohibit the consumption or possession of alcoholic beverages in a house car if the consumption or possession occurs in the area of the house car used as sleeping or living quarters and that area is separated from the driving compartment by a solid partition, door, curtain, or some similar means of separation; however, consumption is not authorized while the house car is in motion. Any person violating this subsection must be assessed a fee of fifty dollars; however, the licensing authority may not record the violation against the person's driving record unless the person was the driver of the motor vehicle at the time that the violation occurred.

2. Subsection 1 does not apply to a public conveyance that has been commercially chartered for group use, any passenger for compensation in a for-hire motor vehicle, or a privately owned motor vehicle operated by a person in the course of that person's usual employment transporting passengers at the employer's direction. This subsection does not authorize possession or consumption of an alcoholic beverage by the operator of any motor vehicle described in this subsection while upon a public highway or in an area used principally for public parking.
3. The driver of a multipassenger bicycle may not:
 - a. Drink or consume alcoholic beverages, as defined in section 5-01-01, while operating the multipassenger bicycle on any public street, road, path, or highway or while in an area used principally for parking; or
 - b. Have in the driver's possession on the driver's person while operating the multipassenger bicycle on a public street, road, path, or highway or while in an area used principally for parking, any bottle or receptacle containing any alcoholic beverage which has been opened, or the seal broken, or the contents of which have been partially removed.

SECTION 4. AMENDMENT. Section 39-10.1-08 of the North Dakota Century Code is amended and reenacted as follows:

39-10.1-08. Point system not applicable.

Any violation of this chapter, or any moving violation as defined in section 39-06.1-09, or any nonmoving violation as defined in section 39-06.1-08 when committed on a bicycle or, an electric bicycle, or a multipassenger bicycle, as defined in section 39-01-01, is not cause for the licensing authority to assess points against the driving record of the violator pursuant to section 39-06.1-10. Any other legally authorized penalty for a criminal traffic offense or noncriminal traffic violation is applicable to bicyclists.

SECTION 5. A new section to chapter 39-10.1 of the North Dakota Century Code is created and enacted as follows:

Multipassenger bicycles.

Unless otherwise allowed by a governmental entity having jurisdiction, a multipassenger bicycle may not be operated on any bicycle path or multi-use path.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 6, 2023

Filed April 10, 2023

CHAPTER 354

HOUSE BILL NO. 1277

(Representatives Satrom, Karls, Klemin, Roers Jones, Schneider)
(Senator Larson)

AN ACT to amend and reenact section 39-08-01.5 of the North Dakota Century Code, relating to suspension of the electronic alcohol monitoring and sobriety breath testing requirement during drug court program participation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰³ **SECTION 1. AMENDMENT.** Section 39-08-01.5 of the North Dakota Century Code is amended and reenacted as follows:

39-08-01.5. Partial suspension of sentence for drug court program or veterans treatment docket completion.

1. Notwithstanding section 39-08-01, ~~all~~:
 - a. All but ten days of the minimum mandatory sentence required for a defendant charged with a third or subsequent violation of section 39-08-01 may be suspended on the condition the defendant successfully completes a drug court program or veterans treatment docket approved by the supreme court.
 - b. If the drug court determines a defendant participating in a drug court program has substantially complied with the requirements of the drug court program, the drug court may suspend the defendant's electronic alcohol monitoring and sobriety breath testing requirement under the twenty-four seven sobriety program for the six months preceding completion of the drug court program.
2. Upon successful completion of a drug court program or veterans treatment docket, a defendant convicted of a felony under section 39-08-01 and sentenced to drug court or veterans treatment docket is deemed to have been convicted of a misdemeanor.
3. If a defendant convicted of a misdemeanor under section 39-08-01 is sentenced to drug court or veterans treatment docket and successfully completes a drug court program or veterans treatment docket, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.2.

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

Approved April 12, 2023

Filed April 13, 2023

²⁰³ Section 39-08-01.5 was also amended by section 3 of House Bill No. 1138, chapter 132.

CHAPTER 355

HOUSE BILL NO. 1246

(Representatives Grueneich, Brandenburg, Ostlie, Satrom, Vigesaa)
(Senator Erbele)

AN ACT to amend and reenact section 39-10-04 of the North Dakota Century Code, relating to required traffic-control devices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-10-04 of the North Dakota Century Code is amended and reenacted as follows:

39-10-04. Obedience to and required traffic-control devices.

1. The driver of ~~any~~ a vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.
2. ~~No~~ A provision of this chapter for which traffic-control devices are required may ~~not~~ be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a state statute does not state that devices are required, ~~such~~the statute is effective even though no devices are erected or in place.
3. Whenever ~~an~~ official traffic-control devices ~~are~~device is placed in ~~positions~~a position approximately conforming to the requirements of this title, ~~such devices~~the device must be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary is established by competent evidence.
4. Any official traffic-control device placed pursuant to the provisions of this title and purporting to conform to the lawful requirements pertaining to ~~such devices~~the device must be presumed to comply with the requirements of this title, unless the contrary is established by competent evidence.
5. The department may not remove or inactivate a traffic-control signal placed within the corporate limits of a city and within one thousand feet [304.8 meters] of a public or nonpublic elementary, middle, or high school without consulting with the city having jurisdiction of the location where the traffic-control signal is placed, except for temporary repair or routine maintenance.

Approved March 29, 2023

Filed March 30, 2023

CHAPTER 356

SENATE BILL NO. 2189

(Senators Weber, Dever, Rummel)
(Representatives Grueneich, Mitskog, Swiontek)

AN ACT to amend and reenact section 39-10-21.1 of the North Dakota Century Code, relating to entering a closed road; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-10-21.1 of the North Dakota Century Code is amended and reenacted as follows:

39-10-21.1. Closing road because of hazardous conditions - ~~Posting of official traffic-control devices~~Road closure notice - Entering closed road prohibited.

1. The highway patrol or local law enforcement authorities having jurisdiction over a road may close a road temporarily due to hazardous conditions for the protection and safety of the public. If such a closing is made, the authority ordering the closing shall make every reasonable attempt to notify the public and, when practical, may post appropriate official traffic-control devices to advise motorists of the closing.
2. ~~Any~~ if a road closure under subsection 1 has been announced to the public, an individual, while operating a motor vehicle, may not knowingly enter a road closed which is posted with an appropriate traffic-control device at the point of entry ~~may not drive on the road.~~

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 357

HOUSE BILL NO. 1141

(Representatives Schauer, Klemin, O'Brien, Pyle, Schneider, Wagner)
(Senators Kreun, Lee, Mathern, K. Roers)

AN ACT to create and enact section 39-10-26.3 of the North Dakota Century Code, relating to yielding the right of way for a stationary motor vehicle; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 39-10-26.3 of the North Dakota Century Code is created and enacted as follows:

39-10-26.3. Vehicle to yield the right of way for stationary motor vehicles.

1. If a motor vehicle is stopped, standing, or parked along the interstate system, or a multilane highway outside the limits of a city, with flashing hazard warning signals, the driver of an approaching or passing vehicle shall proceed with caution and yield the right of way by moving to a lane not adjacent to the stationary motor vehicle if the move may be made with due regard to safety and traffic conditions or if not, the driver shall proceed with due caution, reduce the speed of the vehicle, and maintain a safe speed for the road conditions.
2. This section does not relieve the driver of a stationary motor vehicle from the stopping requirements and restrictions provided under section 39-10-47 or from the lamp restrictions provided under section 39-21-26.

Approved April 6, 2023

Filed April 10, 2023

CHAPTER 358

HOUSE BILL NO. 1181

(Representatives VanWinkle, Christensen, Frelich, Hauck, Mock, Murphy, D. Ruby,
Weisz)
(Senators Boehm, Estenson, Larson, Luick)

AN ACT to amend and reenact subsection 5 of section 39-12-02 of the North Dakota Century Code, relating to special permits for vehicles of excessive size; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰⁴ **SECTION 1. AMENDMENT.** Subsection 5 of section 39-12-02 of the North Dakota Century Code is amended and reenacted as follows:

5. Permits issued for overdimensional movements of vehicles not exceeding ~~twelve~~ feet [~~3.053.66~~ meters] in total width, including load, are valid for travel during the day and night with proper lighting. Permits issued for overdimensional movements of vehicles not exceeding one hundred twenty feet [36.58 meters] in total length, including load, are valid for travel during the day and night with proper lighting.

Approved March 29, 2023

Filed March 30, 2023

²⁰⁴ Section 39-12-02 was also amended by section 2 of House Bill No. 1060, chapter 359.

CHAPTER 359

HOUSE BILL NO. 1060

(Political Subdivisions Committee)
(At the request of the Highway Patrol)

AN ACT to amend and reenact section 24-18-06, subsection 3 of section 39-12-02, and subsection 6 of section 39-12-05.3 of the of the North Dakota Century Code, relating to special permit fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-18-06 of the North Dakota Century Code is amended and reenacted as follows:

24-18-06. Preservation of existing truck weight provisions.

This chapter does not modify or authorize any change to the existing weight limitations for trucks with gross vehicle weight up to one hundred five thousand five hundred pounds [47854 kilograms] excluding the interstate system.

²⁰⁵ **SECTION 2. 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 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:
 - 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 an interstate permit is ten dollars per trip, fifty dollars per month for fees paid on a monthly basis, or three hundred dollars per ~~twelve-month period~~ for unlimited trips in an annual period. Annual permits may be purchased for the period beginning January first and ending December thirty-first or for a twelve-month period beginning the date of purchase.
 - c. The fee for special mobile equipment is twenty-five dollars per trip.

²⁰⁵ Section 39-12-02 was also amended by section 1 of House Bill No. 1181, chapter 358.

- 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, fifty dollars per month for fees paid on a monthly basis, or one hundred fifty dollars per for unlimited trips in an annual period. Annual permits may be purchased for the period beginning January first and ending December thirty-first, or for a twelve-month period beginning the date of purchase.
- 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, fifty dollars per month for fees paid on a monthly basis, or one hundred fifty dollars per for unlimited trips in an annual period. Annual permits may be purchased for the period beginning January first and ending December thirty-first or for a twelve-month period unless the beginning the date of purchase. The fee for a vehicle that is a noncommercial fishhouse trailer being moved by the owner, then the fee is twenty dollars per twelve-month period.
- j. The fee for an overlength vehicle or load that is one hundred twenty feet [36.58 meters] or less is twenty dollars per trip, fifty dollars per month for fees paid on a monthly basis, or one hundred fifty dollars per for unlimited trips in an annual period. Annual permits may be purchased for the period beginning January first and ending December thirty-first, or for a twelve-month period beginning the date of purchase.
- 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 fee of up to fifteen dollars for every permit issued under this section to be deposited into the motor carrier electronic permit transaction fund.

SECTION 3. AMENDMENT. Subsection 6 of section 39-12-05.3 of the North Dakota Century Code is amended and reenacted as follows:

6. The director may issue a permit for a truck with a gross weight that exceeds one hundred five thousand five hundred pounds [47854 kilograms], not to exceed one hundred twenty nine thousand pounds [58513.41 kilograms]. The monthly permit fee is one hundred dollars per month or seven hundred dollars annually. Annual permits may be purchased for the period beginning January first and ending December thirty-first or for a twelve-month period beginning the date of purchase. Vehicle weight under this subsection is determined according to the formula under subsection 2 of section 39-12-05.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 360

SENATE BILL NO. 2120

(Transportation Committee)
(At the request of the Highway Patrol)

AN ACT to amend and reenact sections 39-12-11, 39-12-17, and 39-12-22, relating to overweight vehicle limitations; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-12-11 of the North Dakota Century Code is amended and reenacted as follows:

39-12-11. Impounding overweight vehicle.

Any vehicle found to have been moved or used upon any highway, street, or road in this state at a weight exceeding the limitations as specified in any order, ordinance, or resolution issued under section 39-12-03, exceeding the limitations imposed by 39-12-05.3, or as limited by section 39-12-05 may be impounded by any peace officer and taken to a warehouse or garage for storage.

SECTION 2. AMENDMENT. Section 39-12-17 of the North Dakota Century Code is amended and reenacted as follows:

39-12-17. Trial - Charges.

At the trial of the action, the court shall hear testimony concerning the facts and if it is found that such vehicle or vehicles were moved upon the highways, streets, or roads of this state at a weight in excess of the limitations imposed under the provisions of section 39-12-03 or 39-12-05.3, or as limited by the provisions of section 39-12-05, charges for the extraordinary use of the highways, streets, or roads must be assessed as follows:

1. The storage charges and costs of the action must be assessed; and
2. An additional charge must be assessed as follows:

1 to 1,000 pounds [.45 to 453.59 kilograms] of excess weight = \$20

1,001 to 2,000 pounds [454.05 to 907.18 kilograms] of excess weight = \$40

2,001 to 3,000 pounds [907.64 to 1360.78 kilograms] of excess weight = \$60

3,001 to 4,000 pounds [1361.23 to 1814.37 kilograms] of excess weight = \$140

4,001 to 5,000 pounds [1814.82 to 2267.96 kilograms] of excess weight = \$220

5,001 to 6,000 pounds [2268.41 to 2721.55 kilograms] of excess weight = \$305

6,001 to 7,000 pounds [2722.01 to 3175.14 kilograms] of excess weight = \$380

7,001 to 8,000 pounds [3175.60 to 3628.74 kilograms] of excess weight = \$495

8,001 to 9,000 pounds [3629.19 to 4082.33 kilograms] of excess weight = \$575

9,001 to 10,000 pounds [4082.78 to 4535.92 kilograms] of excess weight = \$655

10,001 to 11,000 pounds [4536.37 to 4989.51 kilograms] of excess weight = \$1,100

11,001 to 12,000 pounds [4989.97 to 5443.10 kilograms] of excess weight = \$1,200

12,001 to 13,000 pounds [5443.56 to 5896.70 kilograms] of excess weight = \$1,300

13,001 to 14,000 pounds [5897.15 to 6350.29 kilograms] of excess weight = \$1,680

14,001 to 15,000 pounds [6350.74 to 6803.88 kilograms] of excess weight = \$1,800

15,001 to 16,000 pounds [6804.33 to 7257.47 kilograms] of excess weight = \$1,920

16,001 to 17,000 pounds [7257.93 to 7711.06 kilograms] of excess weight = \$2,550

17,001 to 18,000 pounds [7711.52 to 8164.66 kilograms] of excess weight = \$2,700

18,001 to 19,000 pounds [8165.11 to 8618.25 kilograms] of excess weight = \$2,850

19,001 to 20,000 pounds [8618.70 to 9071.84 kilograms] of excess weight = \$3,000

20,001 to 21,000 pounds [9072.29 to 9525.43 kilograms] of excess weight = \$4,200

21,001 to 22,000 pounds [9525.89 to 9979.02 kilograms] of excess weight = \$4,400

22,001 to 23,000 pounds [9979.48 to 10432.62 kilograms] of excess weight = \$4,600

23,001 to 24,000 pounds [10433.07 to 10886.21 kilograms] of excess weight = \$4,800

24,001 to 25,000 pounds [10886.66 to 11339.80 kilograms] of excess weight = \$5,000

25,001 to 26,000 pounds [11340.25 to 11793.40 kilograms] of excess weight = \$5,200

26,001 to 27,000 pounds [11793.86 to 12246.99 kilograms] of excess weight = \$5,400

27,001 to 28,000 pounds [12247.45 to 12700.59 kilograms] of excess weight = \$5,600

28,001 to 29,000 pounds [12701.04 to 13154.18 kilograms] of excess weight = \$5,800

29,001 to 30,000 pounds [13154.63 to 13607.77 kilograms] of excess weight = \$6,000

An additional charge of \$200 for every 1,000-pound [453.59-kilogram] increase over 30,000 pounds [13607.77 kilograms] consistent with the above formula.

SECTION 3. AMENDMENT. Section 39-12-22 of the North Dakota Century Code is amended and reenacted as follows:

39-12-22. Permissible loads - Exceptions.

When any motor truck, truck tractor, or trailer is operated upon the public highways of this state carrying a load in excess of the maximum prescribed under the provisions of sections 39-12-03 and, 39-12-05, and 39-12-05.3 or other maximum weight limitations prescribed by law, the load must be reduced or shifted to within such maximum limitations before being permitted to operate on any public highway of this state; provided, however, that any such vehicle carrying a load of livestock is exempt from the limitations prescribed in section 39-12-05.3, relating to the carrying capacity of any wheel, tire, axle, or group of axles when excessive weight is caused by a shifting of the weight of the livestock. All material unloaded as required by this section must be cared for by the owner or operator of such vehicle at the risk of such owner or operator.

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

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 361

HOUSE BILL NO. 1338

(Representatives Porter, Dockter, Heinert, Karls)
(Senators Dever, Larson)

AN ACT to amend and reenact section 31-13-04 and subsection 10 of section 39-20-07 of the North Dakota Century Code, relating to collection of samples for DNA testing and chemical tests to determine alcohol concentration and presence of drugs for individuals operating motor vehicles; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 31-13-04 of the North Dakota Century Code is amended and reenacted as follows:

31-13-04. DNA testing - Procedure - Immunity.

1. Samples of blood or other body fluids for DNA testing may ~~only~~ be obtained in a medically approved manner by a physician, registered nurse, licensed practical nurse, phlebotomist, or medical technologist, ~~or by other qualified personnel approved by the laboratory~~, and packaged and submitted in kits approved or provided by the laboratory and in accordance with rules adopted by the laboratory. ~~No civil~~
2. Samples of saliva for DNA testing may be obtained by a licensed peace officer, and packaged and submitted in kits approved or provided by the laboratory and in accordance with rules adopted by the laboratory. Samples may be collected and submitted by personnel from an agency outside the state with approval of the laboratory.
3. Civil or criminal liability may not attach to any individual authorized to draw or obtain a sample of blood or other body fluids from any individual for DNA testing, ~~provided if~~ the sample of blood or other body fluids was drawn or obtained according to sampling techniques approved by the laboratory.

SECTION 2. AMENDMENT. Subsection 10 of section 39-20-07 of the North Dakota Century Code is amended and reenacted as follows:

10. A law enforcement officer who has witnessed an individual who is medically qualified to draw the blood sample for testing may sign a verified statement that the law enforcement officer witnessed the individual draw the blood sample and the individual followed the approved methods of the ~~state toxicologist~~ director of the state crime laboratory or the director's designee. Further foundation is not required to establish that the blood sample was drawn according to the approved method of the ~~state toxicologist~~ director of the state crime laboratory or the director's designee.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 29, 2023

Filed March 30, 2023

CHAPTER 362

SENATE BILL NO. 2362

(Senators Rummel, Hogue, Lee)
(Representatives Klemm, Lefor)

AN ACT to amend and reenact section 39-21-41.4 of the North Dakota Century Code, relating to safety belt usage; to repeal section 39-21-41.5 of the North Dakota Century Code, relating to secondary enforcement of safety belt requirements; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰⁶ **SECTION 1. 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 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.

SECTION 2. REPEAL. Section 39-21-41.5 of the North Dakota Century Code is repealed.

Approved April 4, 2023

Filed April 5, 2023

²⁰⁶ Section 39-21-41.4 was also amended by section 2 of Senate Bill No. 2085, chapter 252.

CHAPTER 363

SENATE BILL NO. 2193

(Senators Paulson, K. Roers, Wanzek)
(Representatives Nathe, Steiner, Weisz)

AN ACT to amend and reenact section 39-22-14 of the North Dakota Century Code, relating to motor vehicle dealer licenses; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-22-14 of the North Dakota Century Code is amended and reenacted as follows:

39-22-14. Motor vehicle dealer license - Fees - Penalty.

1. A person may not engage in the business of buying, selling, or exchanging of motor vehicles without possessing a current motor vehicle dealer license. A person may not advertise or otherwise hold out to the public as engaging in the buying, selling, or exchanging of motor vehicles for resale without possession of a current new motor vehicle dealer license or used motor vehicle dealer license.
2. The motor vehicle dealer license fee is one hundred dollars per year and for which the department shall issue one dealer plate. The applicant for an initial new or used motor vehicle dealer license shall submit with the application a nonrefundable fee of one hundred dollars for the initial inspection ~~with the application~~. The applicant shall provide the business's federal employer identification number or, in the case of an application from an individual, the individual's social security number.
3. A motor vehicle dealer licensed under this chapter may buy, sell, or exchange:
 - a. A motor-powered recreational vehicle if the dealer maintains a surety bond that fulfills the requirements of section 39-22.3-05 and collects and timely transmits any applicable snowmobile safety and off-highway safety fees; and
 - b. A trailer if the dealer maintains a surety bond that fulfills the requirements of section 39-22.1-02.
4. A vehicle sold under subsection 3 does not count toward the minimum sales requirement under section 39-22-18.
5. The department may assess a person violating this section a one hundred dollar fee for a first violation, a two hundred dollar fee for a second violation within two years of the first violation, or a fee of at least five hundred dollars but not more than two thousand dollars for a third or subsequent violation within five years of the first violation. Any person not licensed as a dealer under this section who has been previously found to be in violation of this section, and assessed the fees specified, is guilty of a class B misdemeanor if a third or subsequent violation occurs.

Approved March 27, 2023

Filed March 28, 2023

CHAPTER 364

HOUSE BILL NO. 1346

(Representatives Murphy, Dyk, Mock, Nathe, Nelson, J. Olson, M. Ruby)

AN ACT to amend and reenact subsection 3 of section 39-24-04 and section 39-24-11 of the North Dakota Century Code, relating to snowmobile registration exemption and penalties; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 39-24-04 of the North Dakota Century Code is amended and reenacted as follows:

3. If a snowmobile is exempt from registration under subdivision b or c of subsection 2, the owner is required to purchase an out-of-state public trails and lands access permit received upon payment of a twenty-five dollar per year fee.
 - a. ~~The permit must be in the operator's possession displayed on the snowmobile when that individual the snowmobile is operating the snowmobile within~~ operated on public lands within the state.
 - b. For up to five business days after purchasing an out-of-state public trails and lands access permit, an online receipt or printed receipt may be presented in lieu of the official permit until the official permit is received.
 - c. Dealers or other agents authorized by the director of the parks and recreation department ~~whothat~~ sell out-of-state public trails and lands access permits may retain one dollar of the twenty-five dollar per year fee and the remainder of the fees collected under this subsection must be deposited in the state snowmobile fund.

SECTION 2. AMENDMENT. Section 39-24-11 of the North Dakota Century Code is amended and reenacted as follows:

39-24-11. Penalties.

1. Any person who violates ~~subsection;~~
 - a. Subsection 12 of section 39-24-09 must be assessed a fee of one hundred dollars. ~~Any person who violates subdivision;~~
 - b. Subdivision b or g of subsection 5 of section 39-24-09 is guilty of a class B misdemeanor. ~~Any person who violates subdivision;~~
 - c. Subdivision c of subsection 5 of section 39-24-09 is guilty of an infraction or a class B misdemeanor as determined by section 39-24.1-07. ~~Any person who violates subsection;~~

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- d. Subsection 11 of section 39-24-09 is guilty of a class B misdemeanor and must be assessed a fine of at least one hundred dollars. ~~Any person who violates any; and~~
- e. Any other provision of section 39-24-09 must be assessed a fee of twenty dollars.
2. Any person, unless specifically exempted, who fails to register or fails to display a decal or permit as required by sections 39-24-02 and 39-24-04 must be assessed a fee of fifty dollars. If the person provides proof of registration after the violation, the fee may be reduced by one-half.
3. Any person who violates any other provision of this chapter for which a specific penalty is not provided must be assessed a fee of ten dollars.

Approved April 6, 2023

Filed April 10, 2023

CHAPTER 365

HOUSE BILL NO. 1381

(Representatives Ostlie, Cory, Grueneich, Hagert, Louser, D. Ruby, Satrom)
(Senators Conley, Klein, Larsen, Meyer)

AN ACT to create and enact a new section to chapter 39-34 of the North Dakota Century Code, relating to classifying a transportation network company driver as an independent contractor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-34 of the North Dakota Century Code is created and enacted as follows:

Transportation network company driver - Independent contractor.

1. As used in this section:

a. "Transportation network company" means a person that:

(1) Maintains a digital network to facilitate services by transportation network company drivers to a person seeking those services; and

(2) Accepts requests from the public only through the organization's digital network and not by telephone, facsimile, or in person at a retail location.

b. "Transportation network company driver" does not include a person transporting freight, sealed or closed envelopes, boxes, parcels, or other similar sealed or closed containers for compensation. The term means a person that:

(1) Enters a written agreement with a transportation network company to use the transportation network company's digital network to connect with an individual seeking services offered by the transportation network company driver;

(2) Performs services for a person through a transportation network company's digital network in exchange for compensation or payment; and

(3) Does not perform services at a physical business location operated by the transportation network company in the state.

2. A transportation network company driver is an independent contractor and not an employee of a transportation network company if the transportation network company:

a. Enters an agreement with the transportation network company driver that the transportation network company driver is an independent contractor and not an employee of the transportation network company.

- b. Does not unilaterally prescribe specific hours during which the transportation network company driver must be available to accept service requests submitted through the transportation network company's digital network.
- c. Does not prohibit the transportation network company driver from engaging in outside employment or performing services through other transportation network companies except while the transportation network company driver is engaged in performing services through the transportation network company's digital network.
- d. May not terminate the contract of the transportation network company driver for a driver's refusal to accept a specific transportation service or delivery service request.
- e. Does not prohibit the transportation network company driver from using a vehicle with an internal combustion engine.

Approved March 30, 2023

Filed April 3, 2023